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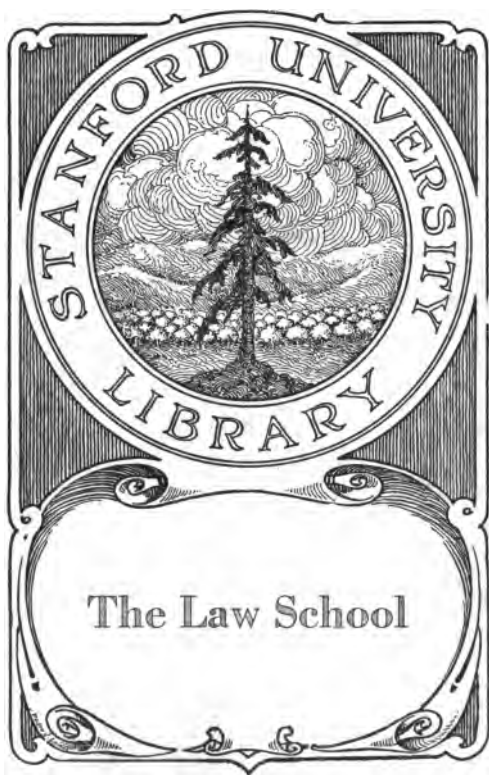
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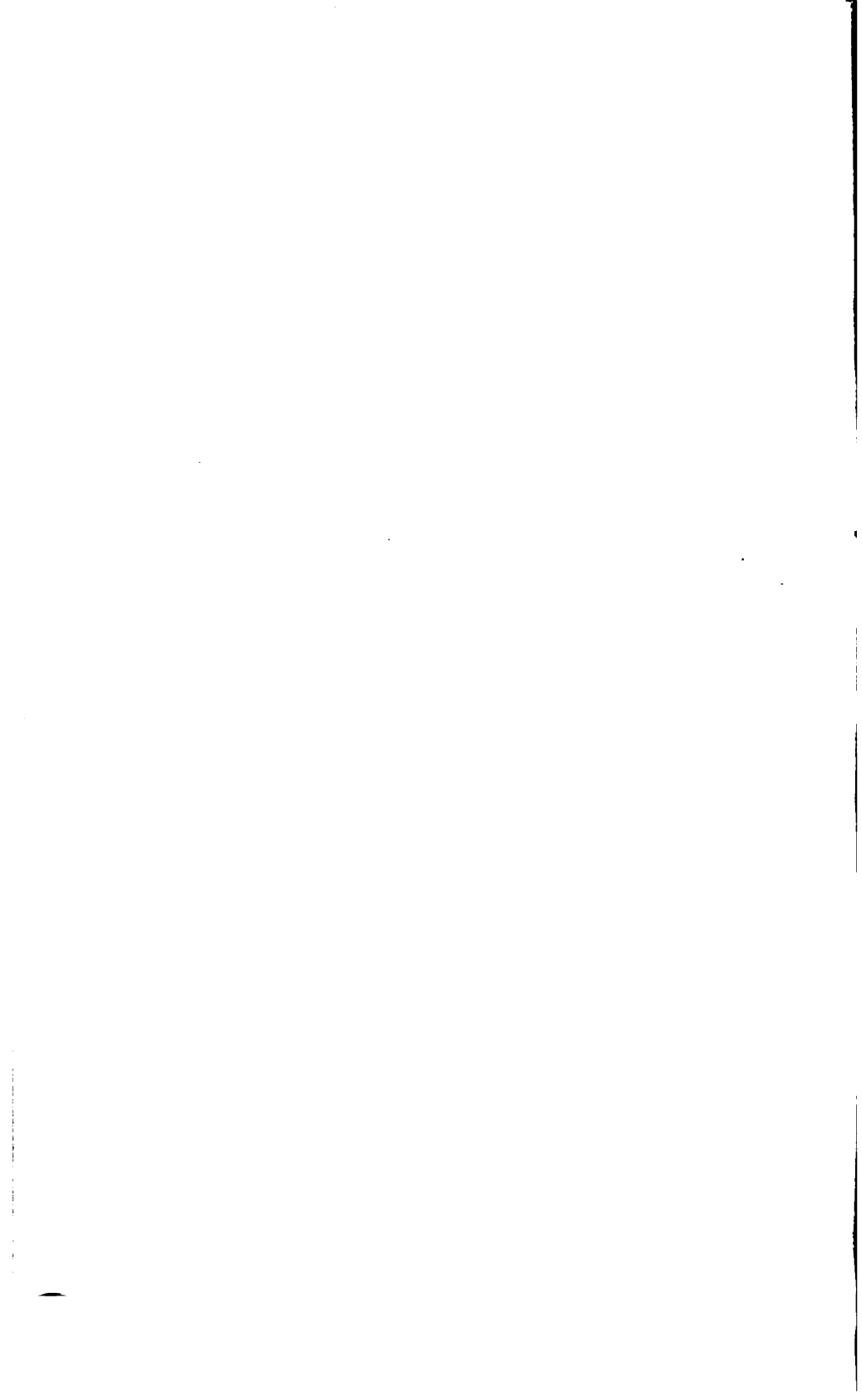
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Jan. 1837



Ishahs Collection



U. Leonard Meyer,

LAWS
OF THE
TERRITORY OF IDAHO,
NINTH SESSION.

CONVENED ON THE FOURTH DAY OF DECEMBER 1876.
AND ADJOURNED ON THE TWELFTH DAY OF
JANUARY, 1877.

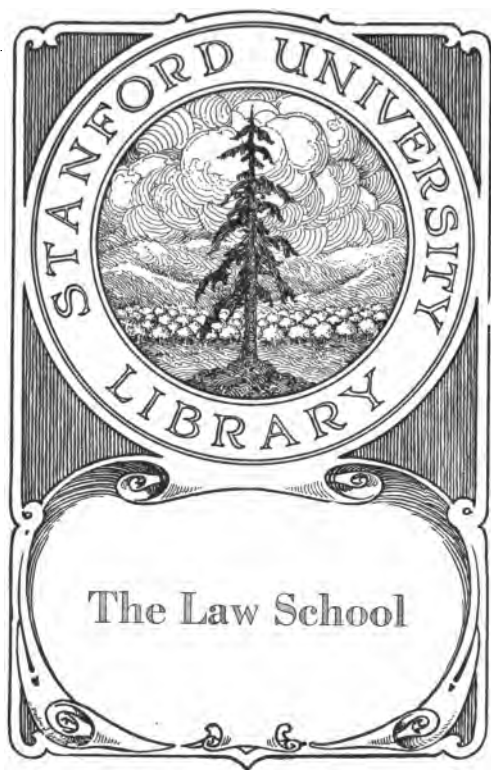
AT
BOISE CITY.

CONTAINING ALSO LAWS CONTINUED IN FORCE AND
NOT PRINTED BEFORE BY THE GOVERNMENT.

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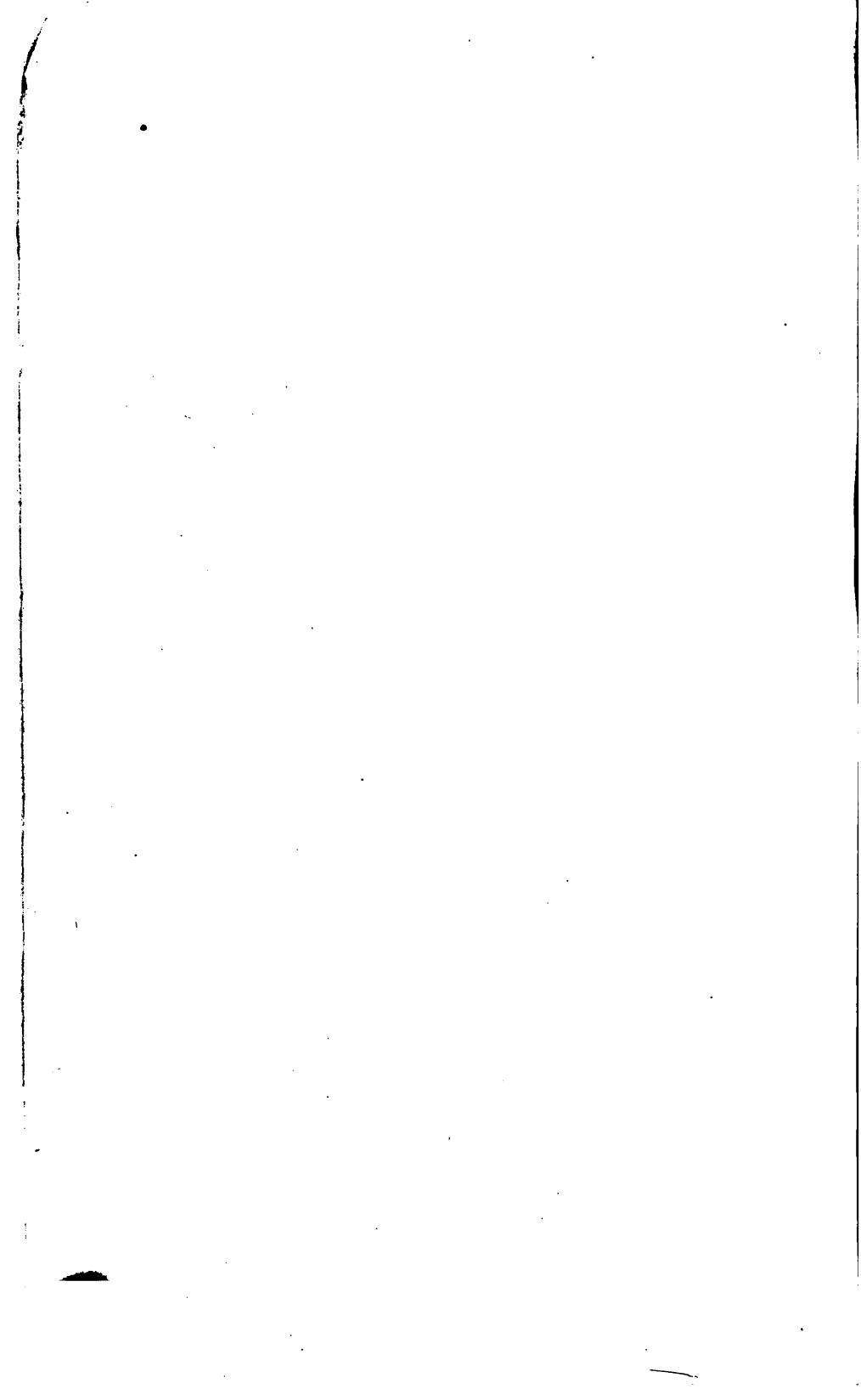
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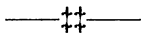


L A W S
OF THE
TERRITORY OF IDAHO,
NINTH SESSION:

CONVENED ON THE FOURTH DAY OF DECEMBER 1876,
AND ADJOURNED ON THE TWELFTH DAY OF
JANUARY, 1877,

A T
BOISE CITY.

CONTAINING ALSO LAWS CONTINUED IN FORCE AND
NOT PRINTED BEFORE BY THE GOVERNMENT.



BOISE CITY:
MILTON KELLY, TERRITORIAL PRINTER,
1877.

/

CERTIFICATE.

**TERRITORY OF IDAHO, }
SECRETARY'S OFFICE.**

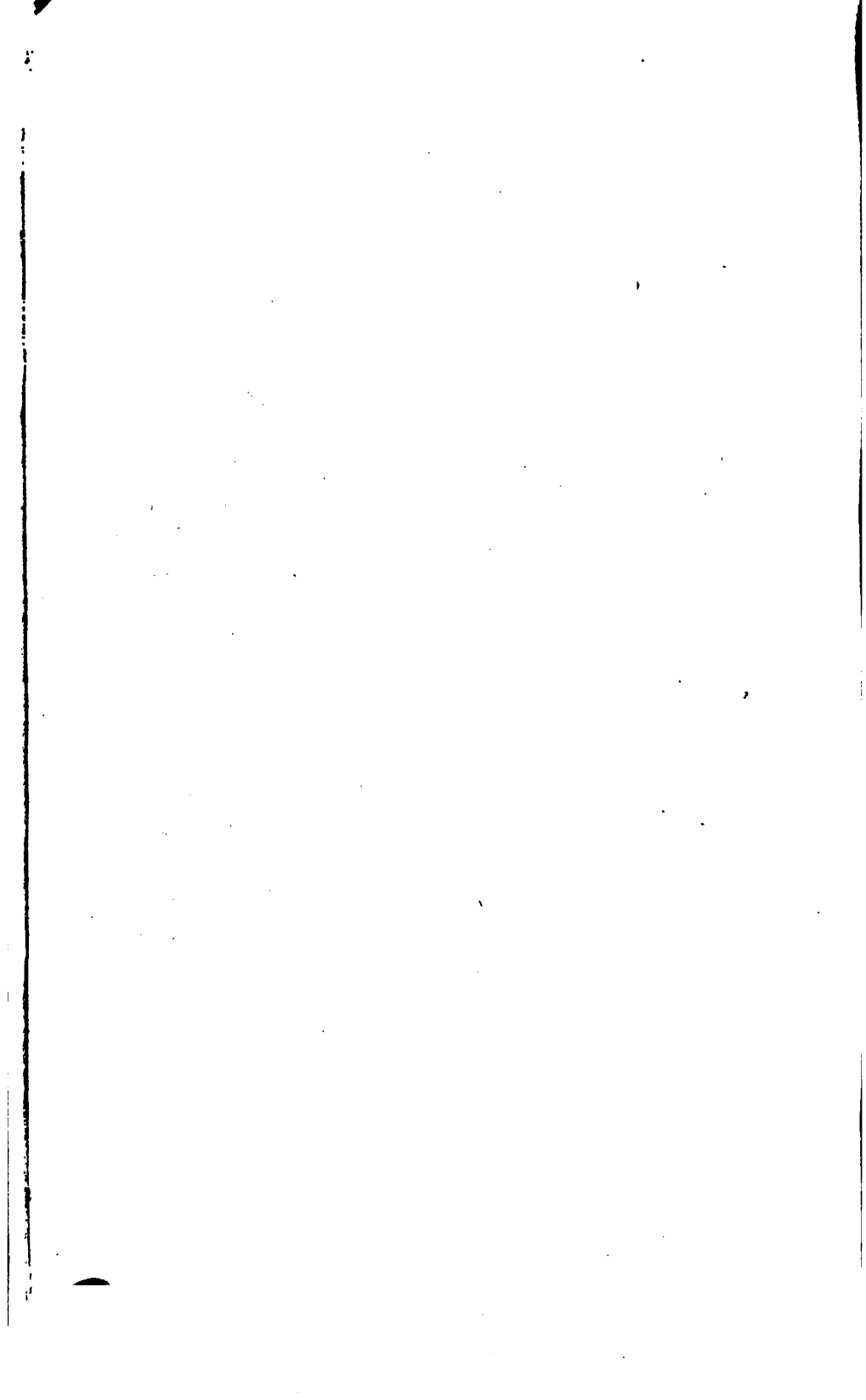
I HEREBY CERTIFY, that the Laws, Acts, Resolutions and Memorials contained in this printed volume are true and literal copies of the Enrolled Laws, Acts, Resolutions and Memorials passed at the Ninth Session of the Legislative Assembly, of the Territory of Idaho, convened on the 4th day of December, A. D. 1876, and from page 105 the Laws previously passed and authorized to be continued in force, and not printed before by the Government.



IN WITNESS WHEREOF
I have hereunto set my
hand and affixed the
Seal of the Territory.

Done at Boise City,
this 5th day of April,
A. D. 1877.

E. J. CURTIS,
Secretary of Idaho.



L A W S
OF THE
TERRITORY OF IDAHO.

NINTH SESSION.

AN ACT

To amend An Act entitled "An Act to regulate proceedings in Civil Cases in the Courts of Justice in Idaho Territory." Approved, January 15th, 1875.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That Chapter One of the act entitled, "An Act to regulate proceedings in civil cases in the courts of justice in Idaho Territory," approved January 15th, 1875, be amended by adding thereto the following:

When an action is brought against a defendant or defendants, on a written contract, it shall be sufficient to sue such defendant or defendants by the name signed to the contract; and when the name of a defendant or defendants cannot be discovered by the plaintiff after due diligence, such defendant or defendants may be sued by any name or names: *Provided*, That service shall be had upon the real party or parties who is the defendant or are defendants in interest, and the description of the person or persons defendant and the cause of action are sufficient to apprise the party served with process that he, she or they, is or are the party intended to be sued.

SEC. 2. That section 214 of said act be amended by striking out the same, and substituting the following section 214:

That any judge who has presided at the original trial of

any action, shall have jurisdiction at chambers at any place within the Territory of Idaho to settle the statement and hear and determine a motion for new trial therein; and in case such judge shall not be in office, any other district judge. That the notice that a motion will be made for a new trial, or the settlement of a statement therefor shall be settled, need not state the time and place of the hearing; but such notice shall, after service on the opposite party, be immediately presented to the judge who presided at the original trial, whereupon the said judge shall immediately set a time and place where the statement shall be settled and motion heard, by order, and the moving party, within ten days after he receives said order, shall serve said order upon the opposite party, which service shall give the court jurisdiction of the parties at the time and place specified in the order; *Provided*, That for good cause shown the judge may extend the time and change the place of hearing by order, which shall be served on the respective parties. That the above proceedings shall apply to all cases wherein notice of motion for new trial shall have been made since January, 1875, where the judge presiding at the original trial was presiding out of his district, in which cases either party may apply to said judge, and the judge may by order fix the time and place of hearing, which shall be served upon the opposite party; whereupon the said judge shall have jurisdiction of both the parties and subject matter at chambers, at the time and place fixed in said order, and may change the time and place of hearing, for good cause, as in other cases. The judge, after determining the said statement and motion, shall immediately transmit his decision to the clerk of the court wherein the cause was tried, and the same shall be immediately entered on the records of said court, and for purposes of appeal to the supreme court of the Territory only; the final judgment in the cause shall be deemed to have been rendered on the date of such entry on the record. No notice of motion or motion for new trial shall stay proceedings on the original judgment in civil cases; *Provided*, Upon application the judge who tried the action may stay such proceedings on such terms as he may deem just.

SEC. 3. That section 226 of said act be amended by adding thereto: *Provided*, That if execution has issued or shall be issued within five years after the entry of judgment in cases wherein the judgment is for the restitution of real estate, and in cases wherein the writ of restitution has been executed and afterwards the person restored to possession has been

forcibly dispossessed, an alias execution may issue at any time within five years after said execution first issued, or after such forcible dispossession has taken place, by application to the clerk of the court wherein the judgment was rendered.

SEC. 4. Section 354 of said Act be amended by adding thereto the following:

Provided, That when service is made by publication the time specified in the summons need not be as provided above in this section, but may specify any date for appearance not less than ten days after the service shall have become complete, and the court shall have jurisdiction of the defendant and to try the cause at the time specified in such summons.

SEC. 5. That section 462 of said act be amended by striking from the third line thereof the words, "of the judgment," and substituting in lieu thereof the words, "in controversy."

SEC. 6. That section 515 and 516, of said act are hereby repealed, and in place thereof it is enacted as follows: Section 515. That when the Territory or a county is a party to a civil action, or the action is prosecuted or defended in the interest thereof, or is for the recovery of money or a penalty belonging, when recovered, to a school, road or public fund, all the officers of the court shall perform their services for said Territory, county or fund, without the prepayment of costs, and the said costs shall be taxed against said Territory, county or fund, at the same rates and in the same manner that costs are taxed against individuals in civil actions. Section 516. In case of taxation of costs, as is provided in the last section, a bill of the items thereof shall be presented to the court wherein the action is tried for an allowance, and the court shall allow such portion thereof as is legal, and no more, and endorse thereon his allowance, and upon the presentation of such bill and endorsement to the territorial controller in cases wherein the Territory is interested, he shall draw his warrant therefor upon and against the territorial general fund, and on presentation of such bill and endorsement to the county auditor, in cases wherein the county or any particular fund thereof is interested, the county auditor shall draw a warrant for the amount thereof on the fund for the benefit of which the action is prosecuted or defended, or upon the fund of the county from which its current expenses are drawn, which shall be paid as other warrants of like character; *Provided*, That this and the next preceding section shall not apply to cases wherein the Territory is only a nominal party.

SEC. 7. That section 485 of said act be amended by adding thereto the following proviso, to-wit:

Provided, That when there is a vacancy in the office of district judge, or the judge is absent from the Territory, motions may be made and orders granted by any other district judge.

SEC. 8. Words used in this act in the present tense shall be deemed to include the future, as well as the present. Words used in the singular number shall be deemed to include the plural, and the plural the singular; writing shall be deemed to include printing or printed papers; oaths to include affirmations.

SEC. 9. A copy of any record, document or paper in the custody of a public officer of this Territory, or of the United States, within this Territory, certified under the official seal or verified by the oath of such officer to be a true, full and correct copy of the original in his custody, may be read in evidence in an action or proceeding in the courts of this Territory, in the like manner and with the like effect, as the original could be if produced; *Provided*, That no such copy of a private instrument in writing shall be received in evidence without the loss or impossibility of the production of the original instrument be first proved.

SEC. 10. All decisions given upon an appeal in any appellate court in this Territory shall be given in writing, with the reasons therefor, and filed with the clerk of the court; but this section shall not apply to actions tried with a jury anew in the district court on an appeal from a justice's court.

SEC. 11. A defendant, against whom an action is pending upon a contract or for specific personal property, at any time before answer upon affidavit that a person not a party to the action, and without any collusion with him, makes a demand against him upon the same contract or for the same property upon due notice to such person, and the adverse party may apply to the court for an order to substitute such person in his place, and discharge him from liability to either party on his depositing in court the amount claimed on the contract, or delivering the property or its value to such person as the court may direct, and the court may in its discretion make the order.

SEC. 12. Any person shall be entitled to intervene in an action who has an interest in the matter in litigation in the success of either of the parties to the action, or an interest against both. An intervention takes place when a third person is

permitted to become a party to an action between other persons, either by joining the plaintiff in claiming what is sought by the complaint, or by uniting with the defendant in resisting the claims of the plaintiff, or by demanding anything adversely to both the plaintiff and the defendant.

SEC. 13. Any third person may intervene either before or after issue has been joined in the cause.

SEC. 14. The intervention shall be by petition or complaint filed in the court in which the action is pending, and it must set forth the grounds on which the intervention rests. A copy of the petition or complaint shall be served upon the parties to the action against whom anything is demanded, who shall answer it as if it were an original complaint in the action.

SEC. 15. The court shall determine upon the intervention at the same time that the action is decided, and if the claim of the party intervening is not sustained he shall pay all costs incurred by the intervention.

SEC. 16. The party obtaining the postponement of a trial in any court of record shall also, if required by the adverse party, consent that the testimony of any witness of such adverse party who is in attendance, be then taken by deposition before a judge or clerk of the court in which the cause is pending, or before such notary public as the court may indicate, which shall accordingly be done, and the testimony so taken may be read on the trial with the same effect, and subject to the same objections as if the witness were produced.

SEC. 17. Whenever costs are awarded to a party by an appellate court, such party may have an execution for the same, on filing a remittitur with the clerk of the court below, and it shall be the duty of such clerk, whenever the remittitur is filed, to issue the execution upon application therefor, and whenever costs are awarded to a party by an order of any court, such party may have an execution therefor in like manner as upon a judgment.

SEC. 18. The appellate jurisdiction of the district courts shall extend to hearing upon appeal from an order or judgment of the probate court or justice of the peace in the cases prescribed by statute and the organic act of this Territory.

SEC. 19. The courts and the judges thereof shall have power to issue all writs necessary or proper to the complete exercise of the power conferred upon them by the constitution and organic act.

SEC. 20. The terms shall be held at such times and places as provided by law. If a room for holding the court be not provided by the county, together with attendants, fuel, lights and stationery, suitable and sufficient for the transaction of business, the court may direct the sheriff to provide such room, attendants, fuel, lights and stationery; and the expenses shall be a county charge.

SEC. 21. The district judges shall at all reasonable times when not engaged in holding courts, transact such business at their chambers as may be done out of court at chambers. They may try and determine writs of mandamus, certiorari and quo-warranto, hear and determine all applications for orders and writs, which are usually granted in the first instance upon an ex parte application, and may in their discretion also hear applications to discharge such orders and writs.

SEC. 22. When an action or proceeding is commenced in a district court in which a probate court has concurrent jurisdiction, the district court may, if the parties consent, by order transfer the same to the probate court of the same county. Upon such transference the probate court shall have and exercise over such action or proceeding the same jurisdiction as if originally commenced therein.

SEC. 23. Each district and supreme court shall have power to make rules not inconsistent with the constitution and laws of this Territory for its own government and the government of its officers; but such rules shall not be in force until thirty days after their adoption and publication, and no rule shall be made imposing any tax or charge upon any legal proceeding or making an allowance to any officer for services.

SEC. 24. The supreme court, the several district courts and the several probate courts of this Territory, shall be courts of record.

SEC. 25. The sittings of every court of justice shall be public except as is provided in the next section.

SEC. 26. In an action for divorce the court may direct the trial of any issue of fact joined therein to be private, and upon such direction all persons may be excluded except the officers of the court, the parties, their witnesses and council.

SEC. 27. Every court shall have power: *First*—To preserve and enforce order in its immediate presence. *Second*—To enforce order in the proceedings before it, or before a judicial investigation under its authority. *Third*—To compel obedience to its lawful judgments, orders and process, and to the lawful orders of its judge out of court in an action or

proceeding pending therein. *Fourth*—To control in furtherance of justice the conduct of its ministerial officers.

SEC. 28. A judge shall not act as such in any of the following cases: *First*—In an action or proceeding to which he is a party, or in which he is interested. *Second*—When he is related by consanguinity or affinity within the third degree. *Third*—When he has been attorney or counsel for either party in the action or proceeding or legal adviser in the subject matter thereof. But this section shall not apply to the arrangement of the calender or the regulation of the order of business.

SEC. 29. A judge shall not act as attorney or counsel in a court in which he is judge, or in an action or proceeding removed therefrom to another court for review, or in any action or proceeding from which an appeal may be in his own court.

SEC. 30. A judge of the supreme court or of the district court, shall not act as attorney or counsel in any court except in an action or proceeding to which he is a party on the record. A judge or justice of the peace shall not have a partner acting as attorney or counsel in any court in this Territory, nor shall he try a civil case wherein he has had the claim sued for in his possession for collection as agent.

SEC. 31. The courts of justice may be held and judicial business may be transacted on any day except as provided in the next section.

SEC. 32. No court shall be opened nor shall any judicial business be transacted on Sunday, New Year's day, on the Fourth of July, on Christmas day, on Washington's birth-day, on Thanksgiving day or on a day in which the general election is held, except for the following purposes: *First*—To give upon their request instructions to a jury then deliberating on their verdict. *Second*—To receive a verdict or discharge a jury. *Third*—For the exercise of the powers of a magistrate in a criminal action or in a proceeding of a criminal nature; *Provided*, That when the day fixed for the opening of court falls on a non-judicial day aforesaid, that the same shall be opened on the next judicial day thereafter.

SEC. 33. Each of the following courts, and no others, shall have a seal: *First*—The supreme court. *Second*—The district courts. *Third*—The probate courts.

SEC. 34. The clerk of each court shall keep the seal thereof.

SEC. 35. The seal of the court need not be affixed to any proceedings therein, except: *First*—To a summons or

writ. *Second*—To the proof of a will or the appointment of an executor, administrator or guardian. *Third*—To the authentication of a copy of a record, or the proceeding of the court or an officer thereof for the purpose of evidence in another court.

SEC. 36. If an application for an order made to a judge of a court in which the action or proceeding is pending, be refused, in whole or in part, or be granted conditionally, no subsequent application for the same order shall be made to any other judge, except of a higher court; *Provided*, That nothing in this section be so construed as to apply to motions refused for any informality in the papers or proceedings necessary to obtain an order.

SEC. 37. A violation of the last section may be punished as a contempt, and an order made contrary thereto may be revoked by the judge who made it, or vacated by a judge of a court in which the action or proceeding is pending.

SEC. 38. The judges of the supreme court, of the district courts and of the probate courts shall have power in any part of the Territory, and justices of the peace within their respective counties, shall have power to take and certify: *First*—The proof and acknowledgment of a conveyance of real property, or of any other written instrument. *Second*—The acknowledgment of satisfaction of a judgment of any court. *Third*—An affidavit to be used in any court of justice of this Territory.

SEC. 39. No action or proceeding in a court of justice shall be effected by a vacancy in the office of all or any of the judges, or by the failure of a term thereof.

SEC. 40. Every written proceeding in a court of justice in this Territory, or before a judicial officer, shall be in the English language, but such abbreviations as are now commonly used in that language may be used, and numbers may be expressed by figures or numerals in the customary manner.

SEC. 41. That all acts and parts of acts conflicting with this act are hereby repealed, and this act shall take effect and be in force from the date of its passage.

APPROVED, January 12, A. D. 1877.

AN ACT

Creating and defining the Jurisdiction of Courts of Justice of the Peace.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The courts held by justices of the peace in this Territory, are hereby denominated justices' courts, and shall have the jurisdiction conferred by this act.

SEC. 2. Justices' courts shall have jurisdiction of the following actions and proceedings: *First*—Of an action arising on contract for the recovery of money only, if the sum claimed shall not exceed one hundred dollars. *Second*—Of an action for damages for injury to the person, for taking or detaining personal property, and for injuring real or personal property in all cases wherein the damages claimed shall not exceed one hundred dollars. *Third*—Of an action for a fine, penalty, or forfeiture, not exceeding one hundred dollars, given by statute or by the ordinance of an incorporated city. *Fourth*—Of an action upon a bond for the payment of money not exceeding one hundred dollars, though the penalty expressed in such bond exceed said sum. *Fifth*—Of an action upon a surety bond or undertaking taken by them or by any justice of the peace, though the penalty exceed one hundred dollars, if the amount claimed shall not exceed that sum. *Sixth*—Of an action for the foreclosure of any chattel mortgage, or the enforcement of any lien on personal property, when the debt secured by such mortgage or lien shall not exceed one hundred dollars. *Seventh*—Of an action to recover possession of personal property, when the value of such property shall not exceed one hundred dollars. *Eighth*—To take and enter judgment on the confession of a defendant, when the amount confessed shall not exceed one hundred dollars. *Nine*—Of an action for a forcible or unlawful entry upon, or a forcible or unlawful detention of lands, tenements, or other possessions. *Tenth*—Of an action for damages to a mining claim, when the damages claimed shall not exceed one hundred dollars. *Eleventh*—Of proceedings respecting vagrants and disorderly persons.

SEC. 3. The jurisdiction conferred by the last preceeding section shall not extend to a civil action in which the title or boundaries to real property shall come in question.

SEC. 4. Justices' courts shall also have jurisdiction of all misdemeanors and public offences, when the punishment does

not exceed one hundred dollars' fine and six months' imprisonment.

SEC. 5. There shall be no terms of justices courts; such courts shall be always open; and that the jurisdiction in this act extended to said justices courts shall also extend to the several probate courts of this Territory.

SEC. 6. This act shall take effect and be in force from and after its passage.

APPROVED, January 8th, 1877.

AN ACT

To provide for refunding Territorial bonds.

Be it enacted by the Legislative Assembly of Idaho, as follows :

SECTION 1. The territorial treasurer shall, without delay, prepare a form of bond, to be approved by the governor, and procure the same to be suitably engraved or lithographed, to be used in refunding the outstanding bonds of the Territory of Idaho, now past due and unpaid.

SEC. 2. Said bonds shall be in amount for one thousand dollars, five hundred dollars, and for fractional sums when necessary. The principal thereof shall be payable at the treasury, in gold coin of the United States, on the first day of December, in the year one thousand eight hundred and ninety-one. The interest thereon shall be at the rate of ten per cent. per annum, in gold coin of the United States, payable at the treasury semi-annually, on the first days of June and December, in each year, upon the presentation of the proper coupons or interest warrants therefor, which shall have been prepared and attached to said bonds.

SEC. 3. Said bonds shall be signed by the governor, and bear the seal of the Territory attested by the secretary thereof. The coupons shall be signed by the treasurer. Each bond shall, when executed, be registered by the territorial controller in a book, with its number, amount, date, and in whose favor drawn, the fact and date of registration to be endorsed by him on such bond. When so executed and registered such bonds shall be exchanged and delivered by the treasurer as herein-after provided.

SEC. 4. On the presentation by the holder thereof of any bond or bonds of the Territory of Idaho heretofore issued under the acts of January 12th, 1866, and January 14th, 1867,

now outstanding and remaining a charge against said Territory, it shall be the duty of the treasurer to make exchange, giving in exchange a bond or bonds herein provided for, with addition of ten per cent. in favor of such holder upon all bonds presented prior to the first day of June, 1877, and five per cent. on all thereafter presented prior to the first day of December, 1877. No addition to be thereafter allowed.

SEC. 5. No interest shall be included in the body of the bonds hereby authorized. The treasurer shall pay, on presentation and demand, all interest on the old bonds which had accrued on the first day of December, 1876, and interest on the new bonds shall run from that date.

SEC. 6. The treasurer shall, on the passage hereof, give notice of the provisions of this act, by circular or otherwise, to the holders of now outstanding bonds. He shall keep a book of registration, and therein enter the number and amount of each bond issued, and to whom; and also the number and amount of the bond received and the interest then paid thereon, if any be due. All bonds and coupons so redeemed shall be immediately canceled, an exhibit and special report thereof made to the governor at the end of each half year, and safely kept by the treasurer to await the order of the general assembly.

SEC. 7. For the payment of the bonds herein authorized and the interest thereon, according to the strict terms thereof, the faith of the Territory of Idaho is solemnly pledged; and for the payment of the interest, as the same shall accrue, on the bonds hereby authorized, and bonds heretofore issued under the act of January 8, 1875, in gold coin, the treasurer shall reserve and convert into coin any and sufficient of the funds in his hands, at the least possible cost, in preference of all other claims whatsoever.

SEC. 8. For the defraying of all expenses and charges of carrying this act into effect, the sum of three hundred dollars is hereby appropriated, for which the controller shall issue his warrant in favor of the treasurer, payable out of any money in the treasury not otherwise appropriated.

SEC. 9. No further issue of coin bonds under former laws shall be made or otherwise than as herein after provided; and all acts and parts of acts inconsistent herewith are hereby repealed.

SEC. 10. This act shall be in force and take effect from and after its passage.

APPROVED, January 9th, 1877.

AN ACT

To amend An Act entitled "An Act concerning District Attorneys."

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows

SECTION 1. That it is the duty of the district attorneys, in their respective districts, upon the written request of any Territorial or county officer, within their respective districts, to give to such officer their written opinion within twenty days after such request on any legal question in which the Territory, or county or any public fund is interested, and if such opinion is to the effect that the Territory or county, or some one in behalf of the Territory or county, have a cause of action against any person or persons, then at the request of the said territorial or county officer said district attorney shall immediately commence a civil action to recover the same and prosecute such civil action to final judgment; *Provided*, It shall not be the duty of a district attorney to prosecute an action by one county against another county in his district.

SEC. 2. That in case any district attorney shall neglect or refuse to prosecute a civil action as aforesaid, for twenty days after requested, as provided in the last section, the officer who made such request may employ other counsel to prosecute such action; *Provided*, That the district attorney shall in no case act as attorney for any party opposed in interest to the Territory or county. In case the district attorney or other attorney employed as above provided shall recover in the action, he shall receive ten per centum on the amount recovered payable only out of the money collected.

SEC. 3. It shall also be the duty of each district attorney, within his district, to defend any and all civil actions, brought or prosecuted against the Territory, or a county in his district, except cases brought by one county against another county in the same district.

SEC. 4. In every civil action prosecuted for or on behalf of the Territory as herein provided, the controller is hereby authorized to audit any legal bill for clerks fees or other necessary expenses, and draw his warrant on the treasurer for the amount thereof in favor of the person entitled thereto; *Provided*, That every such bill shall have endorsed thereon or attached thereto a certificate of the judge of the court, or the district attorney, that the same is a correct and legal bill.

SEC. 5. This act to take effect and be in force from and after its passage.

APPROVED, January 12th, 1877.

AN ACT

Relating to District Attorneys.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the election held in the Territory of Idaho, on the 7th day of November, A. D. 1876, for district attorneys, in the several districts of said Territory, is hereby legalized and made valid. That the person who received the greater number of votes cast for district attorney in District No. 1, as defined in the act of the legislative assembly of the said Territory, entitled, "An act relating to district attorneys and defining their duties," approved January 14, 1875, at the general election held in said Territory, on the 7th day of November, A. D. 1876, shall be and he is hereby declared to be district attorney for said District No. 1 for the term of two years from and after the 1st day of January, 1877. That the person who received the greater number of the votes cast at said election for district attorney for District No. 2, as defined in said act, shall be, and he is hereby declared to be, district attorney for said District No. 2, for the term of two years from and after the 1st day of January, A. D. 1877. That the person who received the greater number of votes cast at said election for district attorney for said District No. 3, as defined in said act, shall be, and is hereby declared to be, district attorney for said District No. 3, for the term of two years from and after the 1st day of January, A. D. 1877.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after the date of its passage.

APPROVED, January 11th, 1877.

AN ACT

To amend the Revenue Law of Idaho Territory.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That section 41 of an act of the legislative assembly of the Territory of Idaho, entitled, "An act to provide a uniform system of territorial and county revenue and for the assessing and collecting the same," approved January 15, 1875, shall be, and is hereby amended, by striking out from said section the words following, to-wit: *Provided*, That no personal judgment shall be rendered unless the person against whom it is rendered shall have been personally served with the summons or shall have appeared in the action.

SEC. 2. That section 42 of said act be amended by adding to said section, at the end thereof, the words following, to-wit: *And provided, further*, That whenever property is offered for sale after judgment, under the provisions of this act, and there is no purchaser in good faith for the same who bids the full amount of the judgment and costs, the property may be struck off to the county in which the property is taxed, and sold, and the certificate of such sale delivered to the county recorder of said county, and filed and recorded in his office.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after the date of its passage.

APPROVED January 12, 1877.

AN ACT

To amend an act entitled, "An act to provide a uniform system of Territorial and County revenue, and for the assessing and collecting the same."

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. Clause eighth, of section 18 of the above-named act, shall be amended to read as follows: He shall also place in said assessment roll the name in full of each person liable to pay a poll tax, and in a separate column, opposite to such name, the amount of such tax. And whenever through his neglect such poll tax remains unassessed or uncollected, the

assessor and *ex-officio* tax collector and his sureties shall be held liable for the amount of such tax remaining unassessed or uncollected; and upon proof of such neglect, judgment shall be rendered against the assessor and *ex-officio* tax collector and his sureties for the amount of such unassessed or uncollected poll tax, to be enforced as in other cases by law made and provided. The form of the assessment roll shall be substantially as follows:

SEC. 2. This act shall be in force and effect from and after its passage.

APPROVED, January 11, 1877.

AN ACT

To regulate the expense of collecting the Territorial moneys.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The fees for the services of assessors, auditors, tax collectors and county treasurers respectively, in performing all the duties required of them by law in assessing, collecting, and receiving and paying over the territorial taxes or the territorial proportion of any taxes, shall be as follows: To assessors, two per cent. upon the territorial tax levied by law upon the property assessed; to tax collectors of property, per capita, license or other taxes, four per cent. upon the amount of the territorial taxes by him collected and paid over; and to county treasurers, three per cent. upon the amount of territorial taxes by him received and paid over; and to the county auditor, three per cent. of the territorial proportion. And any laws of this Territory prescribing any other or different compensation to any of the officers above named for services to be rendered in or about the assessing, collecting, receiving and paying over the revenues or taxes, shall not be applicable to the territorial taxes, or the territorial proportion of any taxes.

SEC. 2. All laws and parts of laws by which any other or different rates of compensation or fees than those above prescribed for services rendered the Territory by any assessor, auditor, tax collector or county treasurer, in or about the assessment, collection, or receiving and paying over the territorial revenues or the territorial proportion of the revenues or taxes so far as the same are now applicable to such territorial revenues, or the territorial proportion of the revenues or taxes, be, and the same are hereby, repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

APPROVED, January 12th, 1877.

AN ACT

Amendatory of an Act entitled, "An act to provide a uniform system of Territorial and County revenue, and for the assessing and collecting the same." Approved, January 15, 1875.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That section one hundred and one (101) of an act entitled, "An act to provide a uniform system of territorial and county revenue, and for the assessing and collecting the same," approved, January 15, 1875, be, and the same is hereby amended by adding thereto the following: And *Provided further*, That nothing in this act shall be so construed as to authorize any assessor to levy or collect any tax upon any team, wagon, pack-train, or any of the animals or property belonging thereto or connected therewith owned without this Territory, which may be temporarily within this Territory for the purpose of carrying or delivering goods, merchandise or any other freight whatsoever, the owner or owners of which said property shall exhibit to the assessor a receipt for taxes paid in any other county, state or territory, within the year in which said assessment and collection is sought to be levied and collected, or who shall make to the said assessor an affidavit or affirmation that he is a non-resident of the Territory, and that he does not make the said affidavit for the purpose of gain, profit or evasion of the payment of his taxes for the current year. And in every such case the assessor is hereby authorized to administer such oaths; *Provided*, That if no place of residence outside of this Territory be stated in such affidavit or such receipt shown, such persons shall be liable to pay taxes within this Territory.

SEC. 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

APPROVED, January 2d, 1877.

AN ACT

To amend an Act entitled, "An act to provide a uniform system of Territorial and County revenue, and for the assessing and collecting the same." Approved, January 15, 1875.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. Sections thirty-one and thirty four of an act entitled, "An act to provide a uniform system of territorial and county revenue, and for assessing and collecting the same," approved, January 15th, 1875, are hereby amended so as to read as follows: Section 31. On the second Monday of December in each year, the sheriff, as tax collector, shall at the close of his official duties on that day, enter upon the assessment roll a statement that he has made a levy upon all the property therein assessed, the taxes upon which had not been paid, and shall immediately ascertain the total amount of taxes then delinquent, and file in the office of the auditor a statement of said amount, verified by the oath of himself or deputy, which list shall be completed by the third Monday in December, and shall be known as the "delinquent list;" and to enable the tax collector to make out the said list, no taxes shall be received by him on the duplicate assessment roll after making the entry provided for in this section. Section 34. At any time after the third Monday in December, and before the institution of suit as hereinafter provided, any delinquent tax-payer may upon a certificate from the auditor giving description of the property and the taxes due thereon, pay to the county treasurer the taxes assessed against said delinquent with five per cent. additional thereon, taking from the treasurer duplicate receipts for the amount paid, one of which receipts shall be filed with the county auditor, the other with the district attorney of the county. After having been served by any person with a duplicate receipt of the county treasurer for the total amount of taxes due from such persons, or upon a piece of property with five per cent. thereon additional, the district attorney shall not commence the suit authorized by this act against such persons or property; *Provided*, That if any person shall fail to serve said receipt, such person shall pay all costs that may result from his or her negligence. The additional five per cent. provided for by this section, shall be paid into the county treasury for the use of the county.

SEC. 2. Sections 31 and 34 of an act entitled, "An act to provide a uniform system of territorial and county revenue, and for the assessing and collecting the same," approved January 15, 1875, and all other acts or parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

APPROVED, January 12th, 1877.

AN ACT

To provide for the imprisonment of Territorial prisoners in county jails in certain cases.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That in all cases wherein the sentence of imprisonment in the territorial prison is not to exceed one year, the jail of the county wherein the prisoner is tried, or of an adjoining county, shall be deemed the territorial prison, and the prisoner be sentenced to imprisonment therein; *Provided*, That this act shall have no force or effect, except in cases wherein the sheriff of the county in which such jail is situated shall first file an offer with the clerk of the court wherein such prisoner is tried, to keep prisoners at the same rates as they are kept in the general territorial prison.

SEC. 2. That it shall be the official duty of such sheriff, filing such offer, to be the lawful keeper of such prisoners, for a breach whereof he shall be liable in all respects as he is now liable for the safe keeping of prisoners sentenced to imprisonment in the county jail; *Provided*, That the keeper of the said prisoners shall have his accounts allowed and payment made for the keeping of said prisoners in the same manner and at the same rates as the accounts and payments are made to the keeper of the territorial prison.

APPROVED, January 8, A. D. 1877.

AN ACT

To protect the Officers of the Law in the performance of their duties.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows

SECTION 1. If any person shall knowingly and willfully obstruct, resist or oppose any sheriff, deputy sheriff, coroner, constable, marshal, policeman, or other officer or person duly authorized in arresting any person without a warrant, or other process, for committing a crime, every person so offending shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment, together with the costs of suit.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act shall take effect from the date of its passage.

APPROVED, January 12th, 1877.

AN ACT

To amend an Act, "To protect certain game in Idaho Territory." Approved, January 12th, 1875.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. Section 1 of said act is hereby amended to read as follows: Section 1. It shall not be lawful for any person or persons hereafter, within the Territory of Idaho, to willfully kill or destroy any quail or partridge, or trap or carry away the same, or destroy their eggs, prior to the first day of September, A. D. 1879, and after the first day of March, A. D. 1879, it shall not be lawful for any person or persons to kill or destroy quail or partridge, or trap or carry away the same, or destroy their eggs, at any time between the first day of April and the first day of September of each year.

SEC. 3. This act to take effect from and after its passage.

APPROVED, January 8th, 1877.

AN ACT

Supplemental to and amendatory of an Act entitled, "An act relating to the discovery of Gold and Silver bearing Quartz Lodes, and of the manner of their location."

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That an act entitled, "An act relating to the discovery of gold and silver bearing quartz lodes, and of the manner of their location," approved, January the 12, A. D. 1875, be, and the same is hereby amended by adding the following supplementary sections: Section 15. In mining districts, distant thirty miles or more from the county seat of the county in which such district is or may be situated, it shall be lawful for the county recorder to appoint, and he is hereby required on the application of five adult male citizens of such district to appoint a resident deputy recorder, whose duties shall be as follows: To receive for record all notices of the location of quartz claims, and enter the same in a book kept by him in said district for that purpose. That said deputy recorder is hereby authorized to administer the oath required by law to be taken by the person or persons for whom such record shall be made, and enter a copy of the same on his book of records. Section 16. That said deputy recorder shall at least once in six months transmit to the county recorder a certified copy or transcript of all mining records made by him, (not previously transmitted) and shall also transmit the original notices from which such records were made, and it shall be lawful for such deputy recorder to retain for his own use and benefit one-half the fees now allowed by law to county recorders for recording mining claims, paying over the remaining half to the county recorder. Section 17. It shall be the duty of the county recorder when such transcript shall have been received by him, to enter the same in the proper book of records for mining claims, and place on file the original notices as well as the transcript of the record forwarded by the deputy recorder. Section 18. The deputy recorders provided for in this act, shall not by virtue of this act be authorized to perform any other than the special duties herein provided for.

SEC. 2. All laws in conflict with the provisions of this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED January 4, 1877.

AN ACT

To amend an Act entitled, "An act concerning County Treasurers.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION. 1. Section 14 of an act entitled, "An act concerning county treasurers," approved, January 12, 1875, is hereby amended so as to read as follows: Section 14. No order or warrant drawn on the county treasurer and payable out of the county revenue shall be received in payment of any tax, license or dues, but shall be subject to redemption only in the order in which they stand registered or noted in the treasurer's book.

SEC. 2. Section 20 of said act is hereby repealed.

SEC. 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 4. This act to take effect and be in force from and after the first day of January, 1877.

APPROVED, December 21, 1876.

AN ACT

To amend an Act entitled, "An act to establish a Public School system, and to provide for the maintenance and supervision of Public Schools." Approved, January 15th, 1875.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That section two (2) of an act entitled, "An act to establish a public school system, and to provide for the maintenance and supervision of public schools," approved January 15, 1875, be, and the same is hereby, amended to read as follows: Section 2. For the purpose of establishing and maintaining public schools in the several counties of the Territory of Idaho, it shall be the duty of the county commissioners of each county, at the time of levying the taxes for county and territorial purposes, to levy a tax of not less than five mills nor more than eight mills on each and every dollar of taxable property in their respective counties, for school purposes.

SEC. 2. That section six (6) of said act be, and is hereby, amended to read as follows: Section 6. That for the further support of public schools there shall be set apart by the county treasurer of each county, the same to be placed by the respective county treasurers in the county school fund as a part of the same, all moneys arising from fines and forfeitures for a breach of any of the penal laws of this Territory.

SEC. 3. That section 8, be, and the same is hereby, amended to read as follows: Section 8. It shall be the duty of the territorial superintendent of public instruction to exercise a general supervision over the public schools of the Territory, to prepare and have blanks printed for the reports of county superintendents, trustees, census marshals and teachers, and also blanks for teachers' registers, and blank orders from trustees to county superintendents for warrants, and distribute the same to the respective county superintendents.

SEC. 4. That section 9, be, and the same is hereby, amended to read as follows: Section 9. All necessary expenditures of money incurred by the superintendent for the printing of said blanks, shall be paid out of any funds in the territorial treasury not otherwise appropriated; *Provided, however,* That the said printing shall be procured under the same provisions as other public printing of the Territory is procured; *Provided,* It does not exceed the sum of two hundred dollars per annum.

SEC. 5. That sub-division seventh of section 28, be, and the same is hereby, amended to read as follows: *Seventh*—And they shall, by giving ten days' notice, in writing, posted in three conspicuous places in their district, call at any time for a meeting of the legal voters of their district, for the purpose of deciding by the votes of such voters whether or not a special tax specifying the rate proposed to be collected, shall be levied on said district for the building or the repairing of school houses, or for the support of public schools in the respective districts; and the clerk of the board of the trustees shall have the same power to enforce the collection of said tax as is given to assessors on personal property and district attorneys on real estate in the collection of territorial and county taxes, or to bring suit in the name of his district, in any court of competent jurisdiction in his district or county, as other civil suits are brought for the recovery of money. And the said collector shall be entitled to and receive ten per cent. thereon for collecting the same. And the board of trustees of any school district in which there shall have been a special tax levied according to law shall, by giving ten days' notice, in writing, posted in three

conspicuous places in their district, naming the object, day, and the hour and place in said notice, meet and sit as a board of equalization of the assessment of their district, and the laws that govern the equalization of the county assessment shall apply to said board, and the trustees shall have power, by giving thirty days' notice, in writing, posted in three conspicuous places in their school district, or by publication in a newspaper in their district, to declare all unpaid special school taxes delinquent, and shall add five per cent. thereto, to be paid by such delinquent tax-payers.

SEC. 6. That the provisions of sub-division eight of section 28, be, and the same is hereby, amended to read as follows: *Provided*, That when any repairs not exceeding the sum of twenty-five dollars in value, the trustees may in their discretion levy and collect a rate bill, to be paid by all the parents or guardians of all pupils attending said schools, in proportion to the number of pupils sent to said schools by each parent or guardian; but no pupil shall be prohibited from attending said schools on account of his or her parents' or guardian's inability to pay such rate; and the clerk of the board of trustees shall have the same power to enforce the collection of the amounts of said rate bill as is given to tax collectors and sheriffs in the collection of territorial and county taxes.

SEC. 7. That sub-division ninth of section 28, be, and the same is hereby, amended to read as follows: *Ninth*—The trustees of the respective districts shall furnish all things, not otherwise herein provided for, necessary for the use and comfort of the school or schools in their district, such as repairs, wood, stoves, brooms, buckets, black-boards and privies, and for this purpose they may audit and allow accounts against the school fund of their school district, not to exceed ten per cent. of the amount of said school fund.

SEC. 8. That section 30, be, and the same is hereby, amended to read as follows: Section 30. That said trustees shall on the first Monday in July of each year, which shall be, and is hereby declared to be a day for the regular meeting of said board, appoint a census marshal who shall immediately qualify by taking an oath or affirmation faithfully to discharge the duties of his office to the best of his ability, and the clerk of the board, or either of the trustees, is hereby authorized to administer such oath or affirmation. Said census marshal shall proceed, immediately after his appointment and qualification, to take a correct enumeration of all the children in his district between the ages of five and eighteen years of age. After the census marshal shall have finished his enumeration,

he shall forthwith report the same to the trustees of his district, who shall hold a meeting to receive the same, and said trustees shall cause a true and certified copy of said census, together with a certificate of the marshal having performed his duties, which census or enumeration and certificate shall be forthwith transmitted to the county school superintendent of his county.

SEC. 9. That section 33, be, and the same is hereby, amended to read as follows: Section 33. All moneys arising from fines and forfeitures as provided in this act, are hereby required to be paid over by justices of the peace, or other officers receiving the same, to the county treasurers within thirty days after collection.

SEC. 10. That section 17 is hereby amended as follows, by inserting at the close of said section as follows: *Provided*, That in the counties of Boise and Owyhee, one-third of the whole amount of public school moneys reported by the county treasurers, shall be divided equally among the several organized districts, and the remaining two-thirds per capita, as provided in this section.

SEC. 11. All acts and parts of acts so far as they conflict with the provisions of this act are hereby repealed.

SEC. 12. This act to be in full force and effect from and after its approval by the governor.

APPROVED, January 12th, 1877.

AN ACT

To Regulate Marriages.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. Marriage is a personal relation arising out of a civil contract to which the consent of the parties capable of making it is necessary. Consent alone will not constitute marriage: it must be followed by a solemnization or by a mutual assumption of marital rights, duties or obligations.

SEC. 2. Any unmarried male of the age of eighteen years or upwards, and any unmarried female of the age of sixteen or upwards, and not otherwise disqualified, are capable of consenting to and consummating marriage.

SEC. 3. Consent to and subsequent consummation of marriage may be manifested in any form, and may be proved under the same general rules of evidence as facts in other cases.

SEC. 4. If either party to a marriage is incapable of consent for want of age or understanding, or from physical causes, of entering the marriage state, or if such consent is obtained by fraud or force, the marriage is voidable upon application of the injured party.

SEC. 5. Marriage between parent and child, ancestors and descendants of any degree, and between brothers and sisters of the half, as well as the whole blood, and between uncles and nieces, or aunts and nephews, are incestuous, and void from the beginning, whether the relation is legitimate or illegitimate.

SEC. 6. A subsequent marriage contracted by any person during the life of a former husband or wife, of such person with any person other than such former husband or wife, is illegal and void from the beginning; unless—*First*—The former marriage had been annulled or dissolved; or—*Second*—Unless such former husband or wife was absent and not known to such person to be living for the space of five successive years immediately preceding such marriage; in which case the subsequent marriage is void only from the time its nullity is adjudged by a competent tribunal.

SEC. 7. All marriages contracted without this Territory, which would be valid by the laws of the country in which the same were contracted, are valid in this Territory.

SEC. 8. Marriage must be solemnized, authenticated, and recorded, as provided in this act; but non-compliance with its provisions does not invalidate any lawful marriage.

SEC. 9. All persons herein authorized to solemnize marriages must ascertain and be assured of: *First*—The identity of the parties. *Second*—Their real and full names and places of residence. *Third*—That they are of sufficient age to be capable of contracting marriage. *Fourth*—If the male is under the age of eighteen or the female under the age of sixteen years, the consent of the father, mother, or guardian, if any such is given, or that such non-aged person has been previously but is not at the time married; and that the parties applying for the rites of marriage, and making such contract, have a legal right so to do.

SEC. 10. Marriage may be solemnized by either a justice of the supreme court, district or probate judge, the governor, or justice of the peace, priest, or minister of the gospel of any denomination, and no particular form for the ceremony of marriage shall be required; but the parties must declare in the presence of the person solemnizing the marriage that they take each other as husband and wife.

SEC. 11. The person solemnizing a marriage may administer oaths and examine the parties and witnesses for the purpose of satisfying himself that the contracting parties substantially conform to the requirements of this act.

SEC. 12. Every person solemnizing a marriage shall make a record thereof, and within thirty days after such marriage shall make and deliver to the recorder of deeds of the county where the marriage took place, a certificate, under his hand, containing the names and residences of the parties, and of at least two witnesses present, and of the time and place of such marriage; and when the consent of the parent or guardian is necessary, stating that the same is duly given.

SEC. 13. All such certificates shall be filed and recorded by the said recorder in a book to be kept by him for that purpose; and he shall receive a fee of one dollar from the person solemnizing the marriage, who shall be entitled to receive the same from the parties before the marriage.

SEC. 14. When a marriage shall have been solemnized, the person solemnizing the same shall give to each of the parties, if required, a certificate thereof containing the particulars mentioned in section twelve of this act.

SEC. 15. Every person solemnizing a marriage who shall neglect to make and deliver to the recorder a certificate thereof within the time above specified, shall forfeit and pay for such neglect a sum not less than twenty nor more than fifty dollars; and every recorder who shall neglect to record such certificate so delivered, shall forfeit the like penalty.

SEC. 16. The person solemnizing a marriage shall for such service be entitled to receive from the parties married the sum of five dollars, but may receive any other or greater sum voluntarily given by the parties to such marriage.

SEC. 17. If any person shall willfully make out a false certificate of any marriage or pretended marriage, he shall forfeit for every such offence a sum not exceeding five hundred dollars, or may be imprisoned in the county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 18. If any person shall undertake to join others in marriage, knowing that he is not by law authorized so to do, or knowing to any legal impediment to the proposed marriage, he shall on conviction thereof be fined in any sum not exceeding five hundred dollars, and be imprisoned in the county jail until such fine is paid.

SEC. 19. No marriage solemnized by any person professing to be a judge, justice, or minister, shall be deemed or regarded to be void, nor shall the validity thereof be in any

way affected on account of any want of jurisdiction or authority: *Provided*, It be consummated with a full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

SEC. 20. The original certificate and record of marriage made by the judge, justice or minister, as prescribed in this act, and the record thereof by the recorder of the county, or a copy of such record duly certified by such recorder, shall be received in all courts and places as presumptive evidence of the fact of such marriage.

SEC. 21. Illegitimate children shall become legitimized by the subsequent marriage of their parents with each other.

SEC. 22. All fines and forfeitures arising in consequence of a breach of this act shall be paid into the county treasury for the use of common schools; and in all cases when a violation of the provisions of this act is not declared a misdemeanor, said fines and forfeitures shall be recovered by a civil action, to be brought by any person aggrieved, or by the county treasurer.

SEC. 23. That an act approved January 12th, A. D. 1875, and all acts and parts of acts in conflict with the provisions of this act, are hereby repealed.

SEC. 24. This act to take effect and be in force from and after its passage.

APPROVED January 12, 1877.

AN ACT

To provide for Stock districts in the several counties of Idaho Territory, for creating Stock Boards for such districts, and for the round-up of Cattle.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The board of county commissioners of the several counties of the Territory of Idaho, shall at their regular meeting in April, 1877, divide their respective counties into stock districts of not more than twelve, and number the same. They shall have due regard to natural boundaries, and shall take into consideration the convenience of the resident stock owners, and shall at the same time (and annually thereafter at their regular meeting in April) appoint three *bona fide* resident stock owners in each stock district, (naming one as superintendent, and one as clerk) who shall constitute the stock

board of such district. Said stock boards shall hold their office for one year, and until their successors are appointed and qualified. Notice of appointment shall be forwarded by mail, or delivered in person, or by proxy to each member of the stock board of every stock district, by the clerk of the board of commissioners, within two days from the date of such appointment.

SEC. 2. The members of the several stock boards, who may be appointed in accordance with the provisions of this act, shall within ten days after receiving notice thereof, and before entering upon their duties, appear before some officer by law authorized to administer an oath, and take and subscribe to the oath of office, which oath shall be substantially in the following form: I, A. B. do solemnly swear (or affirm) that I will faithfully, fairly and impartially discharge the duties required of me as a member of the stock board of stock district No. — according to law, and to the best of my ability. Said oath shall be attached to the certificate of appointment, and certified to by the officer administering the same, who shall file a copy thereof with the county recorder.

SEC. 3. The superintendent of each stock board shall preside at all meetings of the board, and at all public meetings of the district, and shall with the aid and assistance of the other members of the board superintend the general annual round-up of cattle of the district. He shall have the care and custody of all unclaimed stock, and shall have power to call a meeting of the board, as occasion may require.

SEC. 4. The stock board of each stock district, shall fix the day and place for the commencement of the general annual round-up, within the time prescribed by this act, and shall give five days notice of the same, by posting notices thereof in three of the most public places within their respective districts; *Provided*, That where two or more stock districts join, the general annual round-up shall not take place in more than one district at the same time; but one shall immediately follow the other, in the order that may be agreed upon by the stock boards of such adjacent stock districts.

SEC. 5. Each and every stock board that may be organized under the provisions of this act, shall procure a book of record, and shall adopt and procure a district stock brand and counter-brand, and the cost thereof shall be a charge against the county, which charge or account shall be subscribed and sworn to by the superintendent of the stock board, and on presentation shall be audited and allowed by the county commissioners, and be paid out of the general county fund. All

district stock brands and counter-brands shall remain in the care and custody of the superintendent. They shall only be used in the manner hereinafter designated, and shall be recorded in the county recorder's office, and the recorder shall receive a fee of one dollar for recording the brand and counter-brand of each stock district, to be paid out of the county treasury.

SEC. 6. The clerk of the stock board of each stock district, shall keep a correct description of all unclaimed stock, together with their marks and brands, (should they have any) and shall record the same in a book of records kept for that purpose, and it shall be his duty, and he is hereby required, within six days after the close of the general annual round-up in his district to transmit to the clerks of the several stock boards within his county, a brief, but correct description of all unclaimed stock, together with their marks and brands (should they have any) and upon receipt thereof the same shall be recorded, and kept by each of said clerks for the inspection of the public. For recording the description marks and brands, and making copies thereof, as in this section required, the clerk shall receive a fee of one dollar for each unclaimed animal; but no fee for recording shall be allowed any clerk to whom such description is sent. And the clerk of each stock board is hereby authorized to administer oaths, and take evidence and affidavits in all cases touching the ownership of cattle, and also to administer the oath of office to the members of the incoming stock board.

SEC. 7. The superintendent of each stock district shall receive one dollar per month for the care and herding of each animal placed in his charge by the stock board, and the stock board shall receive one dollar and fifty cents for each unclaimed animal they may brand and counter-brand, in accordance with this act. The foregoing fees, together with the fees of the clerk as provided for in section six of this act, shall become a lien on said stock, and shall be paid by the owner. And the superintendent, clerk and stock board, shall receive no additional compensation for any services required of them by this act.

SEC. 8. In each and every stock district created under the provisions of this act, there shall be annually one general round-up, or gathering together of cattle, between the first day of April and the first day of August. Each and every resident stock owner or owners, or his or their agent, who may own or have in charge twenty-five head of cattle or more, (dairy cows and work cattle excepted), shall be obliged and are

hereby required to attend and assist at every general round-up of cattle (running at large) in the stock district in which they may reside. And a majority of the resident stock owners of each stock district may make and adopt such local laws, rules and regulations, not in conflict with the provisions of this act, as they may deem necessary for their government and guidance.

SEC. 9. When the cattle of any stock district shall be gathered together in accordance with this act, and the local regulations of such district, any stock owner or owners, or his or their agent, shall have the privilege of examining to their satisfaction the cattle belonging to him or them, and the stock board shall take charge of all unclaimed stock, and shall place the same in the custody of the superintendent. All unbranded stock over one year old shall be considered as unclaimed stock, and shall be subject to proof of ownership; *Provided*, That after the first general round-up in 1877, all stock owners shall forfeit their right of ownership to all unbranded stock cattle over one year old, running at large.

SEC. 10. At the close of the annual general round-up in each stock district, the stock board shall immediately proceed to brand all unclaimed stock with the district stock brand, and shall place them in charge of the superintendent, who shall carefully herd the same subject to the inspection and proof of all claimants of said unclaimed stock, for the term of sixty days; and upon any claimant proving the ownership of any of such unclaimed stock, and paying the fees due the superintendent, clerk, and stock board, as in this act provided, then the stock board shall counter brand and deliver said stock to the rightful owner or his agent.

SEC. 11. At the expiration of sixty days all stock that may remain unclaimed in charge of the superintendent, and stock where the owner has not appeared and proven his right of ownership and paid the charges due thereon, the same shall be and is hereby declared the property of the county, and said stock shall be sold to the highest bidder for cash; and after sixty days shall have expired the superintendent shall immediately cause notices of such sale to be posted in three of the most public places in his district ten days prior to the day of sale. The proceeds of such sale shall first be applied by the superintendent to the payment of the fees due the superintendent, clerk and stock board, and the residue shall be paid into the county treasury, and placed to the credit of the general school fund. And the superintendent shall at the time of making such payment, file with the county treasurer a

sworn statement showing the number of stock sold, the gross proceeds of such sale, and the amounts paid superintendent, clerk and stock board, and the balance paid into the county treasury, which payment shall be made, and statement filed within ten days from the date of such sale.

SEC. 12. All stock boards are hereby required and it is made their duty to attend the general annual round-up or gathering of cattle in their respective stock districts, and should any dispute arise respecting the ownership of any cattle, it shall be the duty of the stock board to decide on such dispute; *Provided*, That where one of said board may be a party to any dispute, then the other two members of the board shall select some disinterested resident stock owner of such district to assist at the settlement of such dispute; *Provided further*, That should any dispute arise touching the ownership of any cattle between two members of any stock board, then they shall each of them select some disinterested resident stock-owner to act with the other members of the board in the settlement of such dispute. Any person who may be a party to any dispute touching the ownership of stock, may appeal from the decision of the stock board to any justice of the peace in the county, provided such appeal be taken within two days after the judgment or decision of the stock board may have been rendered.

SEC. 13. Whenever the owner, agent of the owner, or parties in charge of any cattle, shall desire to remove such cattle from the range on which they have been running for the space of ten days or more, to another range ten miles or more distant, they are hereby required to give three days' notice to the stock owners having cattle on such range, before such removal, in order that such stock owners may separate their stock; and the said owner, agent, or parties in possession, shall be further required to gather or round-up their cattle for that purpose; *Provided*, That this section shall not apply to Ada county.

SEC. 14. Any owner, agent, or person in possession of cattle, failing or refusing to comply with the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof may be fined in any sum not less than twenty-five dollars and not more than one hundred dollars, and shall be liable to any party aggrieved in damages.

SEC. 15. Any person or persons who may be convicted of having used a district stock brand or counter-brand without authority, and in violation of law, or of having used a counter-feit brand or counter-brand of the same, shall be fined in a

sum of not less than twenty-five dollars, and not more than one hundred dollars, and shall be imprisoned in the county jail of the county in which the offence was committed, for a term not exceeding thirty days, and all justices of the peace shall have jurisdiction of such offences.

SEC. 16. Should complaint be brought against any member of a stock board for dereliction of duty, the same being sustained, he shall be considered as guilty of a misdemeanor, and shall be liable to prosecution for the same.

SEC. 17. All fines arising under the provisions of this act shall be paid into the county treasury of the county where the offence was committed, for the benefit of the school fund.

SEC. 18. Should a vacancy occur in any stock board by death, resignation or otherwise, the board of commissioners shall at their first meeting thereafter fill the same by appointment; *Provided*, That the provisions of this act shall not apply to the counties of Alturas, Nez Perce, Idaho, Shoshone, Bear Lake, Owyhee and Boise.

SEC. 19. This act shall take effect and be in force from and after its passage.

APPROVED, January 12th, 1877.

AN ACT

To regulate Marks and Brands of Stock.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. Owners of horses, mules, cattle, sheep, goats or hogs running at large must have a mark or brand, and counter-brand, different from any one in use by any other person, so far as may be known.

SEC. 2. Every such owner shall record with the recorder of his county, his mark, brand and counter-brand by delivering to said recorder his mark cut upon a piece of leather, and his brand and counter-brand burnt upon it, and the same shall be kept in the recorder's office. A certified copy thereof made by the recorder, with the seal of his office attached thereto shall be deemed evidence on the trial of any action in a court of competent jurisdiction, as to the ownership of all animals legally marked or branded as hereinafter provided. The recorder shall enter in a book, to be kept by him for that pur-

purpose, a copy of said marks, brands and counter-brands; *Provided*, That such recorder shall be satisfied that such brand and counter-brand tendered to him for record is unlike any other mark, brand or counter-brand in the county, or as far as his knowledge extends is different from any other in the Territory. For recording the mark, brand and counter-brand, and transmitting the same as hereinafter provided, the recorder shall be entitled to demand and receive one dollar; *Provided*, That all marks, brands or counter-brands now recorded in any county in this Territory, shall be deemed and held to be valid, and shall be entitled to priority of record, and that all persons who have heretofore had a brand or mark recorded, and have not had a counter-brand recorded shall add thereto a counter-brand, for which the recorder shall be allowed a fee of one dollar and no more.

SEC. 3. It shall be the duty of every recorder in this Territory to transmit to the recorders of the adjoining counties a transcript of all the marks, brands and counter-brands recorded in his office, which shall be filed by any such recorders in their offices, and reference thereto shall be made in every case of application for the record of marks and brands under this act.

SEC. 4. Any recorder knowingly and willfully neglecting or refusing to comply with the provisions of this act, shall forfeit and pay for every such neglect or refusal, any sum not less than twenty-five nor more than one hundred dollars, to be recovered before any justice of the peace of said county where such neglect or refusal may occur, by any person suing therefor, together with all costs and damages that may occur by such neglect or refusal.

SEC. 5. Every person shall brand his horses and mules and mark and brand his cattle before they are twelve months old, and mark his sheep, goats and hogs before they are six months old. On the trial of an action, as provided in section two of this act, to recover possession of any animal which is marked or branded as provided in this act, the mark and brand shall be primary evidence that the animal belongs to the owner or owners of the mark or brand, and that he, she or they were entitled to the possession of the said animal at the time of the commencement of the action.

SEC. 6. No person shall use more than one mark, brand or counter-brand on the same kind or class of stock, viz: Horses, mules, cattle, sheep, goats or hogs; *Provided, however*, This shall not extend to those persons who are the owners of more than one ranch or farm.

SEC. 7. If any person shall use any mark, brand or counter-brand other than the one recorded by him, except by the consent of the owner of such other mark, brand or counter-brand, he shall be liable to forfeit and loss to any person suing therefor, the stock so marked or branded with any other than his proper mark or brand recorded by him.

SEC. 8. No person shall be allowed to use a mark by cutting off more than one third of the ear, or by cutting the ear on both sides to a point. All persons who may have now such marks, shall be obliged to alter them with respect to the cattle, sheep and hogs they may have to mark after the passage of this act.

SEC. 9. No mark, brand or counter-brand shall be considered as lawful if not recorded as specified in this act. And all persons selling or disposing of any cattle which are not intended for slaughter, or any horses, mares, mules, jacks or jennies shall be required to counter-brand them on the shoulder or give a written descriptive bill of sale, and any person failing to so counter-brand said animals or give such written bill of sale, shall lose all benefits of this act, and all rights to use said brand as evidence in any court under this act.

SEC. 10. If any person who, with the intent to defraud, shall willfully mis-mark or mis-brand any stock not his own, or kills any stock running at large whether branded, marked or not, shall on conviction thereof, be deemed guilty of felony, and shall be punished by imprisonment in the territorial prison for a term of not less than six months nor more than five years.

SEC. 11. All acts or parts of acts conflicting with the provisions of this act are hereby repealed.

SEC. 12. This act shall take effect and be in force from and after the first day of July, eighteen hundred and seventy-seven.

APPROVED, January 12th, 1877.

AN ACT

To encourage Agriculture and Manufactures, and to provide a right of way for Canals, Water Ditches, etc.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SEC. 1. Any person or persons who shall own or occupy

lands in this Territory, shall have the right of way across the lands of any other person or persons for the purpose of conveying water by ditches or flumes on his or their lands for agricultural, mining, milling or manufacturing purposes, by complying with the provisions of this act.

SEC. 2. The person or persons desiring the right of way across the lands of any other person or persons, shall pay to such person or persons owning or occupying such lands, such compensation therefor as may be mutually agreed upon by the parties interested, and in case the parties cannot agree, each party shall appoint one arbitrator, and in case either party shall neglect or refuse to appoint an arbitrator for the period of three days, after written notice has been served on the party so refusing, requiring him or them to make such appointment, then it shall be lawful and shall be the duty of the district court of the county wherein the right of way is claimed, or the judge thereof, to appoint one arbitrator for the party so refusing, and the two arbitrators appointed as aforesaid shall select a third arbitrator. The arbitrators so appointed and selected shall appraise the value of the lands to be used for such canal, or for such ditching or fluming purposes, and shall hear and determine all questions of damages arising from the taking and use thereof, and assess the sum or amount to be paid for the said right of way. Before proceeding to appraise said lands or determine the damages for the taking thereof, the said arbitrators shall make and subscribe an oath that they will faithfully and honestly perform the duties of their appointment. After performing their duties aforesaid, the said arbitrators shall make their report to the district court of the said county, and the same shall be confirmed or set aside for cause shown, and if set aside new arbitrators shall be appointed in the same manner as is hereinbefore prescribed who shall proceed in like manner, and as soon as any award under the provisions of this act shall be affirmed by said district court, it shall have the effect of a judgment, and execution or any other process necessary to enforce the same may be issued by said court or by the clerk thereof. The report of the arbitrators aforesaid to the district court shall be in writing, and shall designate the line, course and direction of the proposed canal, ditch or flume for which a right of way is claimed.

SEC. 3. Upon payment of the damages assessed or awarded as aforesaid to the person or persons entitled thereto, the person or persons awarded the right of way may construct the canal, ditch or flume authorized by the said award.

SEC. 4. All persons availing themselves of the benefits of this act shall construct and keep in good repair a sufficient number of good and substantial bridges, and causeways wherever any public roads or highways may cross the canals, ditches or flumes aforesaid, any such person or persons failing to do so shall be guilty of a misdemeanor, and shall be liable in a civil action for all damages which may accrue to any person on account thereof.

SEC. 5. The arbitrators appointed and acting under the provisions of this act, shall each receive three dollars for each day's service rendered under this act, and the clerk of the district court shall receive such compensation as is allowed for similar services in other cases; all of which shall be paid by the party applying for the right of way; *Provided*, That nothing in this act shall apply to any mining locality.

SEC. 6. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 7. This act shall take effect and be in force from and after its passage.

APPROVED, January 12th, 1877.

AN ACT

Relating to the Slaughtering of Cattle, and the protection of Stock owners.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. Any person or persons engaged in the business of slaughtering cattle, shall keep at their place of business a book in which they shall enter daily the number and class of cattle slaughtered, the name of the person or persons from whom said cattle were purchased, and the marks and brands of such cattle. Said book shall be kept ready at all times for the inspection of any person who may desire to examine the same.

SEC. 2. Any person or persons not regularly engaged in the business of slaughtering cattle, who shall at any time kill or slaughter any cattle shall retain in their possession the hide taken off said cattle with the ears attached thereto without any alteration of the marks on the same, or any disfiguration of the brand for the period of thirty days, and any owner of cattle may within the period of time herein mentioned demand

an exhibition of the hide or hides of any cattle so killed or slaughtered by the person or persons so killing the same, or by any other person or persons for whose use and benefit such animal or animals were killed, and upon such demand being made he or they shall produce said hide or hides for inspection.

SEC. 3. Any person violating any of the provisions of sections one and two of this act, or who may destroy the hide of any cattle slaughtered or killed, within thirty days from the slaughtering or killing thereof, shall, upon conviction, be deemed guilty of a misdemeanor, and punished by a fine of not less than fifty dollars nor more than one hundred and by imprisonment of not more than six months.

SEC. 4. All fines collected under the provisions of this act shall be paid into the county treasury, and be duly apportioned to the county school fund.

SEC. 5. This act to take effect and be in force from and after the first day of April, A. D. 1877.

APPROVED, January 12, 1877.

AN ACT

For the protection of Human Life.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) entitled the party injured to maintain an action and recover damages therefor, then, and in every such case the person or persons who, or the corporation which would have been liable, had death not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to a felony. In every action brought under the provisions of this act, such damages may be given as under all the circumstances of the case may be just.

SEC. 2. The father, or in case of his death or desertion of his family, the mother may maintain an action under the provisions of this act for the death of a minor child, and a guardian for the death of his ward; in other cases the action shall be maintained by the heirs or personal representatives of the deceased.

SEC. 3. The provisions of this act, and the remedies herein provided shall not apply to any events, circumstances or causes of action which occurred prior to its passage.

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after the date of its passage.

APPROVED, January 12th, 1877.

AN ACT

Providing for Bridges or Fords over water ditches, and keeping the same in repair.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION. 1. If any person or persons shall cut a ditch across any road or public highway, or use any such ditch for the purpose of conducting water for irrigating crops, or for any other purpose, said person or persons shall make said ditch of sufficient capacity to prevent any overflow of water, shall construct a good bridge or ford through or over said ditch, and shall make good any damages done to such road or public highway. If any person or persons using such water, shall through neglect or intentionally suffer the same to overflow any city lot or farm, thereby doing injury to such farm or city lot, said person or persons shall upon conviction thereof be liable to any fine not exceeding twenty-five dollars, and such damages as may be assessed by any court having competent jurisdiction.

SEC. 2. Any person or persons irrigating crops or otherwise using water, who shall intentionally or through neglect allow the waste-water to overflow any road or public highway, thereby damaging said road and impeding the travel thereon, shall be deemed liable to the penalty hereinbefore named.

SEC. 3. If any person or persons shall willfully or maliciously cut through the banks of any ditch, canal, dam or reservoir, and thereby overflowing and damaging any road or public highway, such person or persons shall upon conviction thereof be liable to any fine not less than twenty-five dollars and not more than five hundred dollars, and such damages as may be assessed by any court having competent jurisdiction.

SEC. 4. This act to be in full force and effect from and after its passage.

APPROVED, January 4, 1877.

AN ACT

Amendatory of an Act entitled, "An Act relative to Elections."

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That section 11 of an act entitled, "An act relative to elections," be, and the same is hereby, amended to read as follows: Section 11. At all elections to be held under this act, the polls shall be opened at the hour of eight o'clock in the forenoon, and continue open until seven o'clock in the evening of the same day, at which time the polls shall be closed, and upon opening the polls one of the clerks under the direction of the judges, shall make proclamation of the same, and thirty minutes before closing the polls proclamation shall be made in like manner, and the polls shall be closed in half an hour.

SEC. 2. If at any election held under this act, any person knowingly personates and votes in the name of any other person whether living, or dead, or fictitious, or votes more than once at the same election for any candidate for the same office, or votes without having a lawful right to vote, or does any unlawful act to secure an opportunity to vote for himself or any other person, he shall upon conviction thereof be punished by a fine of not less than one hundred dollars and not more than five hundred dollars, and be imprisoned in the territorial prison for a term of not less than six months and not more than two years.

SEC. 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

APPROVED, January 12, 1877.

AN ACT

To amend an "Act concerning Roads, Highways, Trails and Public Thoroughfares."

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That section six (6) of an act entitled, "An

act concerning roads, highways, trails and public thoroughfares," approved January 12th, 1875, be amended by adding thereto the following :

SEC. 2. In case the county commissioners shall in lieu of a road tax to be paid in money, designate that labor shall be performed, the road supervisors in their respective districts shall between the first day of March and the first day of October of each year, notify each person liable to pay a road tax in his district of the time and place where the work shall be performed, and whether a team, plow or other implement is required ; *Provided*, That the labor of a team and plow, or other implement used with the team shall be deemed equivalent to the labor of one person, and if such person shall fail to appear and perform the labor required by the said notice or pay his tax in money, he shall be deemed a delinquent tax payer, and the supervisor shall return him as such to the county commissioners, and upon such return the road tax due by said person shall be collected in the same manner that other delinquent taxes are collected ; and when thus collected shall be used for county roads in the road district where said taxes become delinquent under the direction of the road supervisor.

APPROVED, January 2d, 1877.

AN ACT

Concerning Public Printing.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows :

SECTION 1. That section one (1) of "An act to provide for the printing of blanks for Idaho Territory," be, and the same is hereby, amended in this : The advertisement therein required shall begin on or before the first day of August instead of October. The bids shall be publicly opened, and award made on a day and at an hour to be named in the advertisement within five days after the last publication ; and the blanks and work awarded shall be delivered within sixty days thereafter. The entire cost shall not exceed the amount provided in the act to which this is amendatory.

SEC. 2. The "Act relating to printing done for the Territory, by order of the secretary of the Territory," approved January 9, 1873, be, and the same is hereby, amended so that the sum of twenty-five dollars each shall be paid to weekly

newspapers not exceeding four in number. The proclamation therein provided for shall be published for the space of four consecutive weeks before the day of election.

SEC. 3. The controller, treasurer and territorial superintendent of public instruction shall hereafter make their official reports to the governor at least twenty days prior to the day on which the legislative assembly is appointed to meet in regular session, who may cause the same together with his message to be printed prior to the beginning of such session. They shall also whenever required make special report, and furnish such information as he may require.

SEC. 4. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

APPROVED January 12, 1877.

AN ACT

To amend an Act entitled, "An act relating to Estrays."
Approved December 22d, 1864.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That section three of an Act entitled, "An act relative to Estrays," approved December 22d, 1864, read as follows: If the owner or claimant of any stray animal be unknown, the taker-up shall within ten days after taking up such animal post up written notices, giving a description of such animal, the marks, brands, natural or artificial as near as practicable, the name and residence of the taker-up, and the time at which the same was taken up, one in each school district of the county, and one also shall be posted at the door of the auditor's office of said county, or by publication thereof in a weekly newspaper published in the said county, in at least four issues of said paper during the six weeks hereinafter mentioned, a written notice shall also be deposited by the taker-up of such estrays in the office of the county auditor, and shall be kept on file by said auditor for the period of six months.

SEC. 2. That section four of said act shall be, an is hereby repealed.

SEC. 3. That section five of said act shall read as follows: If the owner or any person entitled to the possession of any estray shall appear at any time within six weeks after said notice is filed with the auditor as aforesaid, and from his right thereto he shall be entitled to the possession and ownership of such estray upon paying all lawful charges which have been incurred in relation to the same.

SEC. 4. That section seven of said act shall read as follows: That if any person entitled to the possession of any estrays, shall not appear and substantiate his title thereto, and pay charges thereon within six weeks from the time said notice is filed with the county auditor, as provided for in this act, such estray shall be sold at the request of the taker-up by the sheriff, or any constable of the county at public auction, upon first giving public notice thereof in writing, by posting up the same in three of the most public places in the precinct, where such estray may have been taken up, at least ten days before such sale, and the taker-up may bid thereon at such sale, and after deducting all the lawful charges of the taker-up as aforesaid, and the fees of the sheriff or constable, which shall be the same as on an execution, the remaining proceeds of such sale shall be deposited in the county treasury.

SEC. 5. If the owner or claimant of any stray sold under the provisions of this act shall within the period of six months after such sale, make satisfactory proof of ownership to the county commissioners of said county in which said stray was sold, the said commissioners shall thereupon order a warrant to be drawn upon the treasurer for the amount paid to him upon the sale of such estray. In case such proof is not made within the said six months, the said money shall be applied to the county school fund of the county.

SEC. 6. Nothing in this act shall be so construed as to permit any person or persons to take up or treat any animal as an estray between the first day of April and the first day of November.

SEC. 7. This act shall apply only to the county of Bear Lake.

SEC. 8. This act shall take effect and be in force from and after its passage.

APPROVED, January 12th, 1877.

AN ACT

To amend an Act entitled, "An act concerning Grand and Petit Jurors.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows

SECTION 1. That an Act entitled, "An act concerning grand and petit jurors," approved January 10th, 1873, be, and the same is hereby, amended by adding to the 28th section thereof the following: *Provided*, That any person who is indigent and unable to pay the said *per diem*, and shall satisfy the court of such indigence and inability, he shall be entitled to a jury trial at the cost of the county without such deposit; *And provided further*, That if such indigent person shall recover judgment, the said *per diem* shall be taxed as costs against the losing party, and the clerk of the court shall have exclusive control of the judgment until such costs are paid the county.

APPROVED, January 12, 1877.

AN ACT

To amend an Act entitled, "An act relative to Elections."

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That section 3 of the act of the legislative assembly of the Territory of Idaho, now in force and unrepealed, providing among other provisions for general elections in and for said Territory entitled, "An act relative to elections," be amended to read as follows: Section 3. A general election shall be held in the several election precincts in this Territory, on the Tuesday following the first Monday of November, *Anno Domini* eighteen hundred and seventy eight, and thereafter biennially on the Tuesday next following the first Monday in November; and all elective territorial, district, county and precinct officers shall hereafter be elected at the times herein specified unless otherwise provided by legislation subsequent hereunto.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

APPROVED, January 12th, 1877.

AN ACT

To provide for the redemption of the outstanding Warrants drawn upon the Treasurer of Ada county, and to provide for the payment of all the county Expenses of said Ada county.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The treasurer of Ada county shall upon the payment into the treasury of any moneys collected for county purposes set apart thirty-five (35) per cent. thereof, which shall be named the "Redemption Fund," and which shall be applied and disbursed only to, and for the payment and redemption of all warrants drawn upon the treasurer of Ada county prior to January 15, A. D. 1869, or duplicates which have been issued in lieu thereof, in the order of their registry as provided for by law.

SEC. 2. The remaining sixty-five (65) per cent. of all said moneys collected and paid in for county purposes shall be named the "Current Expense Fund," and shall be disbursed and paid out in the manner hereinafter provided, and none other.

SEC. 3. At the regular meeting of the board of county commissioners of Ada county in January, April, July and October of each year, the board shall audit and allow all claims or accounts that may appear to them to be just, and order payment to be made out of any moneys belonging to the current expense fund of said county, and at the close of each session prior to the adjournment of the board they shall cause two (2) lists to be made out of all the accounts so allowed, specifying in said lists the several names, amount and for what allowed, which lists shall be certified to as correct by the chairman of the board, attested by their clerk under the county seal, one of which lists shall be immediately transmitted to the county treasurer, the other to the auditor of Ada county, and a copy of the same shall be recorded by their clerk in a book to be provided for that purpose. The county auditor shall, upon receiving the list furnished him by the board file the same in his office, and upon application of any person or persons to whom allowances have been made, draw his warrant upon the county treasurer for the amount so certified to as allowed, and in favor of the person or persons designated in said list, payable out of any moneys belonging to the "Current Expense Fund." The treasurer,

upon presentation of such warrant for payment, shall carefully compare the same with the list, and if correct shall pay it, but if any discrepancy exists he shall note the particulars of such discrepancy upon the back of the warrant, and it is hereby made the duty of the auditor, upon presentment of the warrant so rendered, to issue a duplicate corrected warrant, filing the original in his office, and marking across the face the words "duplicate issued," and sign his name thereto, and on the duplicate warrant shall write in red ink the word "duplicate."

SEC. 4. Immediately upon the receipt of the list of allowances made by the board of county commissioners at their regular session in January of each year, the treasurer shall compute the amount thereof, and add thereto all amounts remaining unpaid and payable out of the current expense fund, and all moneys in excess thereof in said current expense fund, he shall thereupon transfer to the redemption fund, and disburse in accordance with the provisions of section 1 of this act.

SEC. 5. The county treasurer shall upon the payment of any warrant or order write upon the face thereof the word "redeemed," the date of redemption, and shall sign his name thereto.

SEC. 6. Nothing in this act shall be so construed as to interfere with or relate to moneys levied or collected for school purposes.

SEC. 7. All laws or parts of laws in conflict with the provisions of this act are hereby repealed.

SEC. 8. This act to take effect and be in force from and after its passage.

APPROVED, January 11th, 1877.

AN ACT

To amend an Act entitled, "An act regulating the Salaries and Fees of certain Officers of Alturas county."

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. Section three of an Act entitled, "An act regulating the salaries and fees of certain officers in Alturas county," approved January 14th, 1875, be, and the same is hereby, changed and amended to read as follows: Section 3. The *per diem* allowed the assessor of said Alturas county shall

be fixed by the board of county commissioners; *Provided*, That said allowance shall not exceed eight dollars per day nor be less than six dollars per day; *And provided, further*, That said assessor shall not be paid for more than seventy days in which to make the assessment of said Alturas county, and for the collection of all taxes by him to be collected, he shall receive the compensation allowed by law.

SEC. 2. This act to take effect and be in force from and after its passage.

APPROVED, January 11th, 1877.

AN ACT

Regulating Salaries, and Fees, and the Collection and Disbursement of Revenues in Owyhee county.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The sheriff of Owyhee county shall receive a salary of seventeen hundred and fifty dollars per annum, to be paid quarterly out of the county treasury, for all services to be by him rendered, or performed, for said county; he shall also be allowed the sum of one dollar and fifty cents per day, for each prisoner confined in the county jail, as remuneration in full for the board, clothing and medical attendance of such prisoner; he shall also be allowed a jailor, for whose services he shall receive the sum of three dollars per day, for each day a prisoner or prisoners are confined in the county jail; and he shall receive no other compensation for services rendered Owyhee county.

SEC. 2. The county auditor shall receive a salary of seven hundred dollars per annum, payable quarterly out of the county treasury, in full for all services to be by him rendered to and for said county of Owyhee as auditor, or recorder, and clerk of board of county commissioners; *Provided*, That for any services rendered the Territory, he may receive such compensation as may be allowed by law.

SEC. 3. The county treasurer of said county shall receive a salary of seven hundred dollars per annum, payable quarterly out of the county treasury, for all services to be rendered, or performed by him for said county; *Provided*, That for any services rendered the Territory, he shall receive such fees as may be allowed by law.

SEC. 4. Each county commissioner of said county shall receive a salary of two hundred and fifty dollars per annum, to be paid quarterly out of the county treasury, and he may also receive the further sum of forty cents per mile for traveling from his place of residence to the county seat, to attend any meeting of the board, to be computed one way only, and they shall not receive any other compensation for their services. Before any commissioner shall receive or be entitled to receive any compensation from said county, he shall take the oath prescribed by law, and give a bond to the Territory, to be approved and filed by the probate judge, for the faithful discharge of the duties of his office in the sum of two thousand dollars.

SEC. 5. The assessor shall be *ex-officio* tax collector of Owyhee county, and he is hereby authorized and empowered to receive and collect all per capita, or poll taxes, all territorial, county, and miscellaneous licenses, and all taxes to be collected on real and personal property as provided by law; and he shall have the powers provided by law, and hereinafter provided to enforce the collection and payment of taxes, and he shall pursue the same course when not inconsistent with this act, as is provided in the general revenue act of the Territory to be pursued by the sheriff as tax collector. The assessor shall be allowed as full compensation for his services, and the services of his deputies as assessor and tax collector, fifteen per centum of all poll taxes collected, and seven (7) per centum of all other taxes by him collected, to be paid quarterly out of the county treasury, and the assessor shall receive no additional per centage or compensation for the subsequent assessment, or the collection of the taxes thereon.

SEC. 6. The board of county commissioners of said county shall require of the assessor a bond as tax collector, in any sum not to exceed fifteen thousand dollars nor less than five thousand dollars, for the faithful performance of his duties as tax collector; and it is hereby made the duty of the tax collector to pay over to the county treasurer, at least once in four weeks, all tax moneys in his possession, taking the treasurer's receipt for the same.

SEC. 7. All laws or parts of laws of this Territory, providing for the collection of taxes now in force, and not in conflict with this act shall be, and the same are hereby made applicable to said assessor, and the auditor of said county shall deliver the assessment roll, and the subsequent assessment roll, and the delinquent tax list to the assessor, at the same times

respectively that he is now required to deliver the same to the sheriff and district attorney respectively.

SEC. 8. The several salaries, fees, percentages and amounts allowed under the provisions of this act shall be allowed and audited as other claims against the county are allowed and audited; and no officer of said county or other persons shall hold or reserve out of any moneys in his hands or belonging to said county, any salary, fee, percentage or other amount; but all such moneys shall be paid in full into the county treasury.

SEC. 9. All taxes levied and collected in said county for county purposes, including such special taxes as are, or may be authorized by law, all licenses now or hereafter provided by law, all fines and forfeitures, all receipts from toll roads, bridges and ferries, and all poll taxes shall after the amount belonging to the Territory has been deducted, be paid into and constitute a fund to be called "Current Expense and Redemption Fund," which shall be disposed of as hereinafter provided and not otherwise; *Provided*, That nothing in this section shall be so construed as to interfere with or relate to the special tax levied for school purposes in said county; *And provided, further*, That there shall be no special per capita tax for hospital purposes levied in said county, but a special per capita tax of two dollars shall be paid by each male inhabitant of said county, over twenty-one and under fifty years of age, for school purposes, and the board of county commissioners shall furnish the necessary blank receipts, and said tax shall be collected by the assessor at the same time that the poll tax is collected, and shall be paid in full into the school fund of said county.

SEC. 10. All the county expenses of said county shall be paid out of said current expense and redemption fund in cash; and any moneys remaining in said fund after the payment of said expenses shall be set apart by the county treasurer of said county, as hereinafter provided, for the redemption of all county warrants of said county issued prior to the passage of this act, or which may be issued in payment of any claim which may hereafter be allowed for any service or services, or goods, fuel, or materials furnished for said county, prior to the passage of this act.

SEC. 11. At each regular meeting of the board of county commissioners of said county the board shall audit and allow all claims or accounts that may appear to them to be just, and order payment to be made out of any moneys belonging to the current expense and redemption fund; and at the close of each

regular session prior to the adjournment of the board, they shall cause two lists to be made out of all the accounts so allowed, which lists shall be certified to as correct by the chairman of the board, attested by their clerk under the county seal; one of which lists shall be immediately transmitted to the county treasurer, and the other to the auditor of said county, and a copy of the same shall be recorded by the clerk of the board in a book to be provided for that purpose. As soon as the treasurer shall receive such lists of accounts allowed, he shall set aside from the moneys belonging to the "Current Expense and Redemption Fund" as much as may be necessary to liquidate such claims, and any claims on any prior list of accounts allowed subsequently to this act, that shall remain unpaid for want of funds, and the remainder of said "Current Expense and Redemption Fund" shall be by said treasurer set apart for the redemption of outstanding warrants as in this act provided. The county auditor shall upon receiving the list furnished him by the board file the same in his office, and upon application of any person or persons entitled thereto, for a warrant upon the treasurer, shall draw his warrant upon the county treasurer for the amount so certified to as allowed, and in favor of the person or persons designated in said list, payable out of any moneys belonging to the "Current Expense and Redemption Fund," the treasurer upon the presentation of such warrant for payment shall carefully compare the same with the list, and if correct shall pay it; but if any discrepancy exists, he shall note the particulars of such discrepancy upon the back of the warrant, and it is hereby made the duty of the auditor upon the presentation of such warrant to issue a corrected warrant, filing the original in his office, and marking across the face the words "duplicate issued" signing his name thereto, and on the face of the duplicate warrant he shall write in red ink the word "duplicate."

SEC. 12. The county treasurer shall after setting apart sufficient money to pay the current expenses of the preceding quarter, and any claims remaining unpaid on the list for any prior quarter, ascertain how much money remains in said "Current Expense and Redemption Fund," and if there be a sum of five hundred dollars or more in the treasury, belonging to such fund, then it shall be his duty to give notice by publication for two weeks in some newspaper published in said county, or if there should be no newspaper published in said county, then by posting notices in three or more public places in said county, that on a day specified in said notice which shall be fifteen days from the first publication, or the posting of said

notice he will at his office offer at public auction the sum so remaining in said fund as aforesaid to the lowest bidder therefor in county warrants of said county.

SEC. 13. On the day specified in said notice at twelve o'clock M., the treasurer shall proceed to offer at public auction the money so remaining as aforesaid, and the person or persons offering county warrants of said county, principal and interest included, for any part of said moneys at the lowest rate or smallest number of cents upon the dollar shall be entitled to such part of said moneys, upon the surrender to the treasurer of the county warrants so bid by him or them as aforesaid, and said auction shall be continued until all of said moneys are sold, and the treasurer of said county shall receive no bid for more than the par value of said warrants.

SEC. 14. When any bids are accepted and the warrants surrendered to the treasurer, the said treasurer and the county auditor shall each take a description of the number, date, payee, fund and amount of each of said warrants so redeemed, specifying the amount paid for each warrant, and make a several record thereof in their respective offices, and said treasurer shall report the same to the board of county commissioners at their next regular meeting, and said board shall thereupon cause a like description to be entered upon their records, and make an order that said warrants be canceled by the treasurer writing the word "canceled" across the face of each of said warrants and signing his name thereto; said treasurer shall thereupon file said warrants in his office and carefully preserve the same.

SEC. 15. It shall be unlawful for the treasurer of said county to pay any warrants or claims whatsoever against said county otherwise than according to the provisions of this act: *Provided*, That nothing in this act shall prevent any payment out of the school fund.

SEC. 16. The treasurer of said county shall immediately transfer all funds in his hands belonging to said county, except the school fund, to said current expense and redemption fund.

SEC. 17. On the second Monday of October in each year, the tax collector shall, at the close of his official business on that day, enter upon the assessment roll a statement that he has made a levy upon all the property therein assessed, the taxes upon which have not been paid, and shall immediately ascertain the total amount of taxes then delinquent, and file in the office of the auditor a statement of said amount, verified by the oath of himself, or deputy, and shall proceed to make out and file in the office of the auditor a list of all persons and

property then owing any taxes, verified by the oath of himself, or deputy, which list shall be completed by the third Monday in October, and shall be known as the delinquent list; and to enable the tax collector to make out said list, no taxes shall be received by him on the assessment roll after making the entry provided for in this section.

SEC. 18. On or before the fourth Monday in October the tax collector shall cause the delinquent list mentioned in section seventeen to be published, giving in said publication the name of the owner (when known) of all real estate, of all the improvements, together with such a condensed description of the property that it may be easily known, and also a similar condensed description of any real estate or improvements assessed to unknown owners, and also the name of every party delinquent for any tax on personal property, and also opposite each name or description give the amount of taxes, including the costs, due from each delinquent person or property, which shall be one dollar for each name or assessment of property, in addition to the fifteen per cent. hereinafter provided; all of which costs and percentage shall be paid into the county treasury and constitute a part of said current expense and redemption fund. The publication by this section required shall be made by one insertion one time a week for three successive weeks, in any newspaper published in said county, or a supplement thereof, or, if so directed by the board of county commissioners, by posting up a written or printed copy of said list, in at least three conspicuous public places in said county. Said publication shall also designate the time and place of commencing the sale, which time shall not be less than twenty-one days from the first appearance of the publication, and the place of sale shall be in front of the county court-house. On the day and at the place fixed for the final sale, or on some subsequent day to which he may have postponed it, of which he shall give due notice, the tax collector shall, between the hours of ten o'clock A. M. and three o'clock P. M., commence to sell the real estate and improvements advertised, and upon which the taxes and costs have not been paid, commencing at the head of the list and continuing it alphabetically through, unless the sale is adjourned until another day; and power is hereby given to the tax collector to postpone the day of commencing the sale, and to postpone the sale from day to day after it has been commenced, if he deems best for the interests of the Territory and county, or if the tax-payers will be served by such postponement: *Provided, however,* The whole sale of real estate or improvements shall be completed within two weeks

from the day first fixed as the day of sale. The owner in the possession, or the possessor of any real estate offered for taxes due by him, may designate in writing to the tax collector, prior to the commencement of the sale, what portion of the property he wishes bid on, if any person is willing to take less than the whole; but if the owner in possession or possessor does not so designate, then the tax collector shall designate, and the person who will take the least quantity or smallest part of the land, or, in case an undivided interest is assessed, then the smallest portion of such interest, and pay the taxes and costs due, including one dollar which the tax collector shall be entitled to receive for a duplicate certificate of sale, shall be declared to be the purchaser, and he shall pay the taxes and costs thereon before ten o'clock A. M., the following day, or the property shall, on the next day before the regular list is commenced, be again put up and sold, as though it had not been offered; and any person bidding off any property and not taking it shall be excluded from again bidding on any property advertised in the delinquent list.

SEC. 19. In all cases when such property is real or fixed the sale shall be at the court-house door; in all other cases it shall be the duty of the tax collector to seize any property whatever belonging to the delinquent, and sell so much thereof as may be necessary to pay taxes and costs. If any real estate or the improvements thereon cannot be sold for the amount of taxes and charges due thereon, it shall be passed over for the time being, but shall, before the close of the sale, be re-offered for sale; and if the same cannot be sold for the amount aforesaid, the clerk of the board of county commissioners shall bid off the same for the county for such amount; and all such real estate or the improvements thereon so bid off for the county shall continue liable to be taxed in the same manner as if they were owned by individuals, and such taxes and charges thereon shall be a lien on such real estate or improvements, and shall be paid out of the county treasury, while such lands belong to the county, but no lands so bid off for the county shall be offered for sale for any tax levied thereon subsequent to such bid until it shall have been redeemed or shall be sold by the county. When such real estate or improvements so bid off for the county shall not be redeemed, as provided by law, the tax collector shall execute to the county, in his official name, a deed of release therefor, witnessed and acknowledged in like manner as deeds to individuals, which shall have the same force and effect as conveyances executed to individuals for real estate and improvements sold for taxes.

SEC. 20. At any time after the third Monday in October, and before the sale of the property of any delinquent taxpayer, he may pay the taxes due thereon, together with fifteen per cent. additional.

SEC. 21. After receiving the taxes and costs for any property sold, the tax collector shall issue to the purchaser a certificate that he has sold such property, (describing it) specifying the amount of taxes and costs, and that the same was sold for the payment of delinquent taxes for the year 18—, dating such certificate on the day of sale.

SEC. 22. The purchaser shall file such certificate in the office of the county recorder, and it shall constitute a valid lien against the property specified therein, and shall entitle the purchaser, at the expiration of the time specified by law within which such property may be redeemed, to a deed, which the tax collector shall officially execute, and for which the tax collector shall receive from the purchaser the sum of two dollars and fifty cents.

SEC. 23. All property so sold for delinquent taxes may be redeemed by any person interested therein, as in this act provided, by paying to the purchaser, or depositing with the tax collector for him, the amount of taxes and costs, and the additional per centage prescribed by this act; in which case the tax collector shall mark the word "redeemed," the date, and by whom redeemed, across the certificate on file in the recorder's office, and also mark the word "redeemed" on the assessment roll, for which services the tax collector shall receive from the redemptioner the sum of one dollar.

SEC. 24. Said delinquent list, or copy thereof, certified by the county auditor, showing unpaid taxes against any person or property, shall be *prima facie* evidence in any court to prove the assessment, the property assessed, the delinquency, the amount of taxes due and unpaid, and that all the forms of law in relation to the assessment and levy of such taxes have been complied with.

SEC. 25. An act to regulate proceedings in civil cases in courts of justice in this Territory, so far as the same is not inconsistent with the provisions of this act, is hereby made applicable to proceedings under this act; and any deed derived from a sale of real property under this act shall be conclusive evidence of title except as against actual frauds, or prepayment of the taxes upon which such sale was made, and shall entitle the holder thereof to a writ from the district court to obtain possession of such property: *Provided*, That the tax collector, in selling said property, shall only sell the smallest quantity

that any purchaser will take and pay the taxes and all costs, in all cases to be designated by the owner or possessor thereof, if present: *And provided further*, That when property is sold belonging to minors, or persons under legal disability, they shall have until six months after such disability is removed to redeem said property by paying the whole amount of the taxes, and all subsequent taxes and interest paid by and due to the purchaser of said sale; but this provision shall not apply when the executor or administrator of the estate, or the father, or, in case of his death, the mother or guardian of such minor children, has been personally notified of such taxes and sales: *And provided, further*, That the real estate so sold for taxes may be redeemed from such sale, as in case of sale upon execution, as provided in civil cases, by paying to the tax collector the total amount of taxes and all costs, with fifty per cent. thereon: *And provided, further*, That if the same is paid within three months from the date of the certificate of sale, it shall be for the total amount of the taxes and all costs, with twenty-five per cent. thereon. All moneys collected under this act shall without delay be paid to the treasurer of the county, to be distributed to the proper funds; and each collection, and the date thereof, shall be entered opposite the proper name, or property, in the delinquent tax list, which shall be open to public inspection.

SEC. 26. The tax collector shall, on the receipt of any money for taxes, enter the same on his delinquent list, opposite the name of the person delinquent, or opposite the description of property; and shall, on the first Monday in each month, after the time fixed in this act for the commencement of sales of the property of delinquent tax-payers, pay to the county treasurer all moneys collected by him for taxes, taking duplicate receipts for the amount so paid, one of which receipts he shall, on the same day, file with the auditor, and shall, at the same time, file with said auditor a list of all sales made by him up to that date for taxes, under the provisions of this act, stating therein the names of the delinquents, if known, or, if unknown, a description of the property. He shall, on the Saturday next preceding the first Monday in March in each year, pay to the county treasurer all moneys received by him for taxes, and not previously paid over, taking duplicate receipts therefor, one of which shall be filed with the auditor, and shall at the same time file with the auditor a list of all sales made by him and not previously filed, as herein provided. He shall also, on the day last named, make and file with the county auditor an affidavit stating that he has paid to the county treas-

urer all moneys collected by him for taxes prior to that date and filed the receipts therefor, and that the several lists filed by him, as herein directed, contain all sales made by him under the provisions of this act. On the first Monday in November in each year the tax collector shall attend at the office of the county auditor with the delinquent list, or lists, and the auditor shall then carefully compare the same with the treasurer's receipts and statements filed by the tax collector, and if the same shall have been found to be correct, the auditor shall give to the tax collector a receipt specifying the same. The tax collector shall at the same time deliver to the auditor a written statement of all delinquent taxes upon said delinquent list, or lists, remaining uncollected, or for which sales have not been made, with his reason in detail for not being able to collect the same, or for not making sales; and the auditor shall immediately file the said delinquent list, or lists, and statement, with the clerk of the board of equalization, and the board of equalization shall revise the same by striking off such taxes as cannot be collected; the delinquent list, or lists, shall then be returned to the auditor, who shall note the changes made, and shall then return the same to the tax collector. The county auditor shall, in his next report to the territorial auditor, or controller, state the amount stricken off the delinquent list, or lists, by the board of equalization.

SEC. 27. This act shall not affect the collection of any taxes now delinquent, or any action or actions now pending, or that may be hereafter commenced for taxes now delinquent in said county, or the enforcement of any judgment now obtained or which may hereafter be obtained for any such taxes now delinquent.

SEC. 28. All acts and parts of acts in conflict with this act shall not apply to Owyhee county.

SEC. 29. This act shall take effect and be in force from and after its passage.

APPROVED January 9, 1877.

AN ACT

To amend an Act defining the time of commencing Civil Actions. Approved January 14th, 1875.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. Section 16 of said act is hereby amended to

read as follows: Actions other than those for the recovery of real property can only be commenced as follows: Within six years: An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States. Within five years: An action upon any contract, obligation or liability founded upon an instrument of writing, except those mentioned in the preceding section. Within four years: An action upon a contract, obligation or liability not founded upon an instrument of writing. Within three years: First—An action upon a liability created by a statute other than a penalty or forfeiture. Second—An action for trespass upon real property. Third—An action for taking or detaining or injuring any goods, or chattels, including actions for the specific recovery of personal property. Fourth—An action for relief on the ground of fraud, the cause of action in such cases not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the frauds. Within two years: First—An action against a sheriff, coroner or constable, upon the liability incurred by the doing of an act in his official capacity, and in virtue of his office, or by the omission of an official duty, including the non-payment of money collected upon an execution. Second—An action upon a statute for a penalty or forfeiture, when the action is given to an individual, or to an individual and the Territory, except where the statute imposing it prescribes a different limitation. Third—An action for libel, slander, assault, battery, or false imprisonment. Fourth—An action upon a statute forfeiture or penalty to the people of this Territory. Fifth—An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

SEC. 2. This act to take effect from and after its passage.

APPROVED, January 11th, 1877.

AN ACT

To amend an Act entitled, "An Act for securing liens to Mechanics and others." Approved January 11th, 1875.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That section six of an act entitled an act for securing liens to mechanics and others, approved January 11th, 1875, be, and the same is hereby, amended to read as follows:

Section 6. No such lien shall bind any building or superstructure for a longer period than twelve months after the debt for which the lien was filed and is held shall have become due, unless suit be brought in a proper court within that time to enforce such lien.

SEC. 2. All persons holding liens under and by virtue of the act to which this is amendatory upon the same property may either join in the action as plaintiffs, or, failing so to do, may be made defendants, and the validity and amount of the lien of each party to the action duly served with process shall be determined in the same action, whether due or not, and the court shall determine and decree the amount due and owing to each lien holder, and may decree a sale of the property upon which the lien or liens claimed in said action are held, and shall decree a distribution of the proceeds of such sale according to the rights of the respective parties.

SEC. 3. That service of summons shall be made as in other civil actions: *Provided*, That no order from a judge or court for publication of such summons shall be required; but service of summons on non-resident parties to such action may be made without such order.

SEC. 4. That any two or more persons entitled to file and hold liens separately on the same property, according to the provisions of said act, may file their several accounts in one and the same notice of lien, which accounts shall be verified separately, by oath, as provided in section two of said act, all the other requirements of said act being complied with.

SEC. 5. Where any person shall do or perform any labor in or around any quartz mill, hauling ores, or assisting in their reduction, or in preparing them for reduction, or acting as engineer, or feeder, or amalgamator, or as fireman, or assistant fireman, or is in any manner engaged in any part of the labor by which ores are reduced, or is acting as book-keeper, or accountant, for such quartz-mill, he or they shall be entitled to a lien upon said mill, with all its machinery, appurtenances of every kind, and all the personal property, such as firewood, quicksilver, and acids thereto belonging, or therein used; and shall be entitled to all the rights and privileges guaranteed by the provisions of this act, and the act to which it is amendatory.

SEC. 6. Judgment shall be entered against the judgment debtor and in favor of plaintiff or plaintiffs for attorneys' fees actually expended in the enforcement of liens under the provisions of this act, and the act to which it is amendatory, in a sum in each action not exceeding one hundred dollars.

SEC. 7. That all acts and parts of acts in conflict with this act are hereby repealed.

SEC. 8. That this act shall take effect and be in force from and after its passage.

APPROVED, January 11th, 1877.

AN ACT

To provide that, that portion of the County of Oneida which has been formed into the County of Bear Lake shall obtain its portion of the Territorial school fund of 1874.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That upon demand made in writing by the county treasurer of Bear Lake county upon the county treasurer of the county of Oneida, it shall be the duty of the treasurer of Oneida county to pay to the treasurer of Bear Lake county all that portion of the territorial school fund, if any, which was apportioned by the territorial superintendent of public instruction in December, 1874, and not paid into the treasury of Oneida county until after January fifth, 1875, and which would have been distributed to the support of schools in that portion of country which was part of Oneida county but is now Bear Lake county, had Bear Lake county not been formed, "and which was not paid or credited to Bear Lake county in the settlement between said counties made in June, 1875."

SEC. 2. The apportionment of said school fund shall be the proportion of two-thirds of the whole amount, according to districts, and the proportion per capita of the remaining third of said amount, the number of districts and per capita to be determined by the Oneida county superintendent's school report of 1874, being such apportionment as would have been applied to that section of country had Bear Lake county not been formed, said Bear Lake county being then part of Oneida county; and such apportionment and amount found due to the school districts and section of country now included in Bear Lake county, as aforesaid, shall be paid by the treasurer of Oneida county to the treasurer of Bear Lake county from any school funds in the treasury of Oneida county; and from the time of such demand the sum due shall draw interest at the rate of ten per cent. per annum until paid. In case on such

demand as is above provided, there shall not be sufficient school funds in the treasury of Oneida county, the treasurer of said county shall issue a certificate to the treasurer of Bear Lake county for the deficiency; and after such demand the treasurer of Oneida county shall retain all school moneys which shall come into his hands until such deficiency is made up; and as fast as such money may come into his hands shall apply the same to the payment of the said portions of said school funds as is provided herein to be paid by the treasurer of Oneida county to the treasurer of Bear Lake county.

SEC. 3. If the treasurers of Oneida county and Bear Lake county cannot agree as to the amount due, as aforesaid, or if payment thereof shall not be made within one year from the passage of this act, the county of Oneida shall be liable to the county of Bear Lake in a civil action for such sum as may actually be due and not previously paid or credited to Bear Lake county by Oneida county in any settlement prior to the commencement of such suit, which may be brought and prosecuted in the name of one county against the other by name, and the court may enforce such judgment by mandate upon the county commissioners of Oneida county to levy a special tax sufficient to pay such judgment, and upon the tax collector to collect the same and pay to the county treasurer, and the county treasurer to pay the same upon said judgment.

SEC. 4. When said money is received by Bear Lake county, or the treasurer thereof, the same shall be applied exclusively to the support of common schools in the said county under the present law as to the distribution of school funds in the several counties.

SEC. 5. This act shall take effect and be in force from and after its passage.

APPROVED, January 12, 1877.

AN ACT

To amend an Act entitled, "An Act to authorize the County Commissioners of Ada county to build a bridge in Ada county. Approved January 15th, 1875.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That section one (1) of an act entitled, "An

Act to authorize the county commissioners of Ada county to build a bridge in Ada county," approved January 15th, 1875, be, and the same is hereby, amended by striking out the words "April, 1875," and inserting in lieu thereof the words, "April, 1877." Further: That section four (4) of the same act be, and is hereby, amended by striking out the words "fifteen hundred dollars" and inserting in lieu thereof the words "two thousand dollars."

SEC. 2. This act to take effect and be in force from and after its passage.

APPROVED January 12, 1877.

AN ACT

Providing for joint enclosures in Bear Lake County.

Be it enacted by the Legislative Assembly of the Territory of Idaho:

SECTION 1. That if two or more persons living in Bear Lake county and owning land in a joint enclosure agree to construct a lawful fence to protect said land, each person in proportion to the land owned by him or her shall construct his or her proportion and thereafter keep said fence in good repair; and neither party shall abandon his part of said fence, or remove the same or any portion thereof, unless by the consent of all parties interested therein.

SEC. 2. Should any owner of land within said enclosure fail to construct or keep in repair his or her proportion of said fence, it shall be lawful for any person or persons owning land in said enclosure to construct or repair said delinquent's proportion of fence and collect payment therefor and costs of suit by action at law: *Provided*, That if any person or persons owning land in said enclosure shall at any time fence his or her land separately, said person or persons shall thereafter be free from all obligations contained in the foregoing sections.

SEC. 3. A pole fence in said county shall consist of posts firmly pinned together and well set in the ground not less than twenty inches and not more than fourteen feet apart, with not less than five poles, the lower pole not more than fifteen inches and the top pole not less than four and a-half feet from the ground; the same shall be considered a lawful fence.

SEC. 4. This act shall take effect from the date of its passage.

APPROVED, December 16, 1876.

AN ACT

Concerning Hogs found running at large in Alturas County, in the Territory of Idaho.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That all hogs found trespassing upon the premises of any person or persons in the county of Alturas, the owner or proprietor of such premises may take up and safely keep at the expense of the owner or owners thereof, all such hogs so found trespassing, and hold the same until payment of the expenses and damages by them created has been made by the owners thereof.

SEC. 2. All persons taking up hogs under section one of this act shall immediately post three notices in writing, at three public places within the neighborhood of the place of taking up such hogs, giving a description of such hogs, and the time of taking them up, and if the owner thereof fails to pay the charges, and take them away within sixty days after posting said notices, that they will be sold to pay such charges.

SEC. 3 If the owner and taker-up of such hogs cannot agree as to the amount of damages so created, they shall call upon two disinterested persons living in the precinct where such trespass has been committed, who shall fix the amount of damages, if any to be paid, and the same shall be a lien upon such hogs until paid by the owner, together with the cost of such adjudication, which if not paid, said parties may by applying to any justice of the peace, obtain a judgment for the amount of any damage and expense found to have accrued, together with the costs of the justices court, and said justice shall issue an execution commanding the sale of such hogs to pay said judgment, as in other cases of judgment provided.

SEC. 4. If the owner or person entitled to the possession of such hogs, does not appear and substantiate his title thereto, and pay the charges thereon within sixty days after notice has been given as provided in this act, such hogs shall be sold at the request of the taker-up by the sheriff, or any constable of the county at public auction, upon giving notice of such sale by posting a notice of the same, ten days before such sale, in three of the most public place in the precinct where such hogs may have been taken up. After deducting all the lawful charges of the taking up, and the damage if any accrued; the remaining proceeds of such sale shall be deposited

in the county treasury to be applied to the common school fund of said county.

SEC. 5. This act to be in force and take effect from and after its passage.

APPROVED, January 11, 1877.

AN ACT

Concerning Roads and Highways in Idaho County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The board of county commissioners of Idaho county, are hereby authorized, and required to divide said county into a number of road districts, not less than five nor more than ten, for the purpose of the improvement, and keeping in repair the public roads and highways of said county, as hereinafter provided.

SEC. 2. The board of county commissioners of said county shall at least four weeks prior to their regular meeting in July, cause notice to be published in some newspaper published in the first judicial district, if any, and if not the board shall post notices in three of the most public places in each road district, asking for sealed proposals to be received by the said board, for keeping in repair and improving the public roads and highways in said county, for the respective districts separately; and each proposal or bid so submitted to the board shall be accompanied with a bond, conditioned for the well and faithful performance of such contract, as may be made and entered into by and between the person or persons making the proposal or bid, and the board of county commissioners in a sum not less than double the amount bid and stated in each proposal for the improvement and keeping in repair of the roads and highways within the district proposed; two or more sureties to be on such bonds, who shall qualify in the same form and manner as is required of sureties on the official bond of county officers; *Provided*, The board of county commissioners shall give notice four weeks prior to their regular meeting in April for the first contract, which shall commence on the first day of April, 1877, and run till the first day of July, 1878; but thereafter the contracts shall be let for two years.

SEC. 3. At the time to be stated in the notice, the board

of county commissioners shall open and examine the proposals or bids, together with the accompanying bonds, and award to the lowest responsible bidder the contract for each road district separately, for the keeping in repair and improving the public roads and highways in such districts for the term specified in the notice; *Provided*, The board may in its discretion, accept or reject any or all of such bids or proposals, when it appears to the satisfaction of the board that such bid or bids are of an extortionate character, or that the best interest of the county would be subserved by such acceptance or rejection, as the case may be; *Provided further*, That should there be for any cause, no contractor in any road district, the board shall relet the contract for the unexpired time in the same manner as provided by section two of this act.

SEC. 4. Any person or persons contracting as provided in this act shall cause all roads and highways within their respective districts, to be kept clear of obstruction, and in good repair; causing banks to be graded, bridges and causeries to be made, when the same may be needed to keep the same in good repair, and rebuild them when destroyed; and they shall have the same right and privilege to take and use the material for such purpose, as is allowed to supervisors by the act of January, 1875; and for any neglect in the performance of the duties or infraction of the contract made and required by this act, the party or parties so contracting shall be held responsible on said bond, the same as county officers in said county before any court of competent jurisdiction.

SEC. 5. There shall be levied and collected on all able bodied men in each district a road tax of not more than three dollars, the same to be collected by the tax collector of said county, in the same manner as other per capita taxes are levied and collected, and under the same process for the enforcement of the payment thereof.

SEC. 6. The tax collector collecting such road tax shall pay into the county treasury monthly the amount collected, retaining ten per cent. thereof in full compensation for his services; and eighty-five per cent. of the net proceeds from said tax shall be placed in a special road fund for the improvement and repair of public roads and highways in said county, and fifteen per cent. of the net proceeds of said tax to be placed in a sinking fund for the redemption of the road fund warrants drawn on the road fund of said county, and allowed by the board of county commissioners, to be redeemed in the order in which they stand registered or noted in the treasurers book.

SEC. 7. The auditor and recorder of said county shall prepare blank receipts for road taxes, and after numbering and signing the same, forward a number equal to the probable number of inhabitants in said county, liable to pay road tax, to the chairman of the board of county commissioners of said county, who shall sign them or so many of them as may be required, and make an entry thereof in a book to be kept for that purpose; said receipts upon being so signed shall be by said chairman placed in the hands of the auditor and recorder, and by him delivered to the tax collector taking his receipt therefor.

SEC. 8. The several amounts allowed to contractors in the several and respective districts of said county under the provisions of this act shall be audited and allowed as other claims against the county by the board of county commissioners at their regular meetings, and shall be paid quarterly; *Provided*, No warrant shall be drawn in favor of any person awarded a contract under the provisions of this act, until such person or persons shall have procured from at least one member of the board of county commissioners, and filed with the recorder and *ex-officio* clerk of the board a certificate to the effect that such contractor has kept in repair and improved the public roads and highways embraced in his contract; *Provided further*, That the board of county commissioners of said county shall not permit any money to be drawn from the special road fund, otherwise than provided for by this act; but should there be any balance remaining at the end of any contract term, the board may transfer said balance to the old county road fund to pay any warrants they may deem legally drawn and justly due from the county.

SEC. 9. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 10. This act to take effect and be in force from and after its passage.

APPROVED, January 12th, 1877.

AN ACT

To levy a Special Tax in Idaho county, and for other Purposes.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The board of county commissioners of Idaho

county, are hereby authorized and empowered, if in their judgment it be deemed necessary, to levy a special tax upon all taxable property within the limits of said county, of not less than twenty-five cents nor more than fifty cents on each one hundred dollars of taxable property in said county; to be assessed and collected as are other taxes in said county; the proceeds of said special tax to be placed by the county treasurer of said county in a special fund, to be called the Court House Fund. And the said board of county commissioners of Idaho county are further authorized and empowered to levy and collect in the same manner and at the same time, as are other per capita taxes, a special per capita tax of one dollar upon each inhabitant of said county liable to pay per capita taxes; said special per capita tax to be also placed by the county treasurer in the court house fund; *Provided, however* That unless the special property tax hereby authorized, is levied by the board of commissioners of said county, the special per capita tax shall not be levied or collected; *And provided, further*, That the assessor, collector, auditor and treasurer shall perform all the duties required of them by the provisions of this act, without any charge or expense to the county.

SEC. 2. The board of county commissioners of Idaho county are authorized and directed in case they levy the special taxes herein mentioned, to apply all moneys in the court house fund to the building of a court house at the county seat of said county; said court house to be erected at a cost of not more than three thousand dollars. And the board of commissioners aforesaid, are authorized to let a contract or contracts for the building of said court house, under the same rules and restrictions of other contracts let by said board; but such contract or contracts shall not be for a greater sum in the aggregate than three thousand dollars.

SEC. 3. In case the said special taxes are levied, and the court house fund is thereby created, the county commissioners shall continue to levy said special taxes until all indebtedness of the county for building the court house, hereby authorized to be built, has been liquidated. And whenever the indebtedness of the county for that purpose has been liquidated and paid, then the board of county commissioners shall no longer levy or collect such special taxes, and it is hereby made unlawful for them so to do. And upon the payment of all demands against said court house fund, the treasurer of said county is authorized and directed to pay the balance remaining in said fund, if any there be, into the general fund of said county,

and thenceforth shall no longer keep said special court house fund; *Provided*, That the taxes to be levied and collected by the provisions of this act shall not be so levied or collected, unless a petition signed by at least one-third of the tax-payers who are qualified voters of said Idaho county, is presented to the board of county commissioners at a regular meeting, asking that a court house may be built according to the provisions of this act; but nothing in this act shall be so construed as to prevent the board of county commissioners from building a court house as provided for by existing law.

SEC. 4. All acts and parts of acts so far as they conflict with the provisions of this act are hereby repealed.

SEC. 5. This act shall take effect from and after its passage.

APPROVED, January 10th, 1877.

AN ACT

To amend an Act entitled, "An act to provide a uniform system of Territorial and County Revenue, and the Assessing and Collecting the same." Approved January 15th, 1875.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That all the revenue collected under and by authority of sections 78, 79 and 80 of an act entitled, "An act to provide a uniform system of territorial and county revenue, and for the assessing and collecting the same," approved January 15th, 1875, shall be retained by the respective counties in which the same is collected for the use of said counties.

SEC. 2. That all common carries of gold dust, bullion, gold or silver coin are hereby divided into six classes as follows: Those doing business in the aggregate to the amount of two hundred and fifty thousand dollars per quarter and over, shall constitute the first class; those doing business to the amount of two hundred thousand dollars, and less than two hundred and fifty thousand dollars per quarter, shall constitute the second class; those doing business to the amount of one hundred thousand dollars, and less than two hundred thousand dollars per quarter, shall constitute the third class; those doing business to the amount of fifty thousand dollars, and less than one hundred thousand dollars per quarter, shall constitute the

fourth class ; and those doing business in any amount less than fifty thousand dollars per quarter, and more than five thousand dollars per quarter, shall constitute the fifth class ; those doing business in any amount less than five thousand dollars per quarter, shall constitute the sixth class.

SEC. 3. License shall be obtained from the tax collector, and shall be given for the first class upon the payment of seventy-five dollars per quarter ; for the second class, fifty dollars per quarter ; for the third class, thirty dollars per quarter ; for the fourth class, twenty dollars per quarter ; for the fifth class, twelve dollars per quarter, and for the sixth class, the sum of five dollars per quarter ; said amounts to be paid to the tax collector of each county, in which the party applying therefor desires to, or does transact any or all of the occupations specified in this act.

SEC. 4. Any person who shall carry on any business mentioned in this act, without having first obtained a license therefor shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding one hundred dollars, or be imprisoned in the county jail for a period not exceeding ninety days, or by both such fine and imprisonment.

SEC. 5. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 6. This act shall be in force from and after the date of its passage.

APPROVED, January 12th, 1877.

AN ACT

To provide for the Redemption of and prescribing the manner of Redeeming the out outstanding Warrants drawn upon the Treasurer of Boise County, and further to provide for the payment of all Current Expenses of said Boise County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The board of county commissioners of Boise county, are hereby authorized and required to levy and collect annually, all the one hundred and fifty cents (provided by the laws of the Territory), upon each one hundred dollars of all taxable property in said county, for county purposes.

SEC. 2. All the taxes collected for county purposes, upon the taxable property of said county shall be paid into the county treasury, and to be distributed to four funds only, to-wit: General fund, current expense fund, redemption fund, and school fund, to be apportioned as hereinafter provided, and not otherwise.

SEC. 3. Five cents on each one hundred dollars of the taxable property of said county shall be apportioned to the general fund, eighty-five cents to the current expense fund, ten cents to the redemption fund and fifty cents to the school fund.

SEC. 4. All the moneys derived from poll taxes belonging to the county shall be distributed as follows, to-wit: One-half shall be paid into, and constitute a part of the current expense fund of the county, the other half be paid into, and constitute a part of the school fund of the county.

SEC. 5. All revenues collected from territorial and county licenses, that belong to the county, (except gambling licenses, toll bridges, roads and ferries) and all fines and forfeitures (except fines for violating the gambling law, and violations of the law in relation to toll bridges, roads and ferries) shall be put into and constitute part of said current expense fund.

SEC. 6. All gambling licenses and penalties for violation of the gambling law, and all receipts from toll bridges, roads and ferries, and the revenues derived therefrom are to be paid into and form a part of the school fund of the county.

SEC. 7. The hospital per capita tax shall be collected by the county collector, and paid into the county treasury, shall be used to maintain the indigent sick of said county, and for paying the outstanding warrants on the hospital fund, and for such purposes only.

SEC. 8. All the current expenses of said county shall be paid out of said current expense fund; and any money remaining in said fund over and above the registered indebtedness against said fund shall on the first Monday in July and January of each year, be transferred by the treasurer of said Boise county into the redemption fund.

SEC. 9. Whenever there is an amount exceeding two hundred and fifty dollars in said redemption fund set aside by the treasurer of said Boise county, for the redemption of county warrants issued and registered prior to January, A. D. 1869, of said county, then it shall be the duty of the county treasurer to give notice by posting notices in three or more public places in said county, that on a day specified in said

notice, which shall be ten days from the date of said notice, that he will at his office offer at public auction the sum set apart by him aforesaid, in sums of twenty-five dollars to the lowest bidder therefor in county warrants of said county, issued and registered prior to January, 1869.

SEC. 10. On the day specified in said notice, at 12 o'clock M. the treasurer shall proceed to offer at public auction the money set apart as aforesaid, in sums of twenty-five dollars, and the person or persons offering county warrants of said county, principal and interest included, of the above issue at the lowest rate or smallest number of cents upon the dollar, shall be entitled to said money upon the surrender to the treasurer of the county warrants so bid by him or them as aforesaid, and the treasurer of said county shall receive no bid for more than the par value of said warrants, which warrants shall be canceled as hereinafter provided.

SEC. 11. When any bids are accepted, and warrants surrendered to the treasurer; the treasurer and the county auditor shall each take a description of the number, date, payee, fund and amount of said warrant so redeemed, specifying the amount so paid for such warrant, and make a several record thereof in their respective offices, in a book to be kept for such purpose. On the day of the sale and on the following day, the treasurer shall cancel all warrants sold by writing the word "purchased" across the face of each of said warrants, and sign his name thereto, and then surrender the warrants so purchased to one of the county commissioners residing at the county seat, who shall thereupon cause a like description to be made by the clerk of said board of county commissioners.

SEC. 12. At the next regular meeting of said board, said warrants shall be produced and compared by said board with the above record made by the clerk, and thereupon burned.

SEC. 13. The county clerk of said county shall then issue to the county treasurer duplicate receipts, for the amount so paid out for said warrants, and he, the said treasurer shall file one of said receipts with the county auditor, who shall immediately give him credit for such amount paid out of the treasury, and the other receipt shall be filed in his own office.

SEC. 14. It shall be unlawful for the county treasury of said Boise county, to pay any warrants or claims whatever against the said county, issued or accrued prior to the 28th day of December, A. D. 1870, otherwise than according to the provisions of this act; *Provided*, Nothing in this act shall prevent any payment out of the general fund or school fund.

SEC. 15. That an Act entitled, "An act to provide for

the redemption of and prescribing the manner of redeeming the outstanding warrants drawn upon the treasurer of Boise county, and further to provide for the payment of all current expenses of said Boise county," approved December 28th, A. D. 1870, be, and the same is hereby repealed.

SEC. 16. This act to take effect and be in force from and after its passage.

APPROVED, January 4th, 1877.

AN ACT

Concerning Rights of Way, Easements and other necessary means for the developmet of Mines.

WHEREAS, The Congress of the United States by an Act, approved July 26, 1866, and an Act amendatory thereto, approved July 9, 1870, has provided that the local legislatures of the several States and Territories may provide rules for working mines, involving easements, drainage and other necessary means to complete development of mines, upon which patents shall be granted by the United States, in the absence of necessary legislation by Congress; And, *Whereas*, There has been no legislation by Congress upon this subject—therefore,

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The proprietor, owner or owners of mining claims, whether patented under the laws of the United States or held under the local laws and customs of this Territory shall have a right of way for ingress and egress, for the necessary purpose, over and across the lands or mining claims (patented or otherwise) of others as hereinafter prescribed.

SEC. 2. Whenever any such mine or mining claim shall be so situated that it cannot be conveniently worked without a road thereto, or a ditch, to convey the water thereto, or a ditch or a cut to convey the water therefrom, or without a flume to carry water and tailings therefrom, or without a shaft or a tunnel thereto, which road, ditch, cut, flume, shaft or tunnel shall necessarily pass over, under, through or across any lands or mining claim owned or occupied by others, either under a patent from the United States or otherwise, then shall such first mentioned owner or owners be entitled

to a right of way for such road, ditch, cut, flume, shaft or tunnel, over, under, through and across such other lands or mining claims, upon compliance with the provisions of this act.

SEC. 3. Whenever the owner or owners of any mine or mining claims shall desire to work the same, and it is necessary to enable him or them to do so successfully and conveniently, that, he or they should have a right of way for any of the purposes mentioned in the foregoing sections; and if such right of way shall not have been acquired by agreement between him or them, and the claimants or owners of the lands or claims, over, under, across and upon which he or they seek to establish such right of way, it shall be lawful for him or them to present to the judge of the district court of the Territory of Idaho, within and for the county in which such right of way or some part thereof, sought to be enforced is situated, or to which such county is attached for judicial purposes, a petition praying that such right of way be awarded to him or them. Such petition shall be verified and contain a particular description of the character and extent of the right sought, a description of the mine or claims of the petitioner, and the claim or claims, and the lands to be affected by such right or privileges, with the names of the occupants or owners thereof. It may also set forth any tender or offer hereinafter mentioned, and shall demand the relief sought.

SEC. 4. Upon the receipt of such petition and filing thereof with the clerk of such court, the judge shall direct a citation to be issued under the seal of such court, to the owners named in the petition of mining claims and lands to be affected by the proceedings requiring them and each of them to appear before the judge on a day therein named, which shall not be less than ten days from the service thereof, and show cause why such right of way should not be allowed as prayed for; such citation shall be served on each of the parties in the manner prescribed by law for serving summons in ordinary proceedings at law.

SEC. 5. Upon the return day of the citation, or upon any day to which the hearing shall be adjourned, the judge shall proceed to hear the allegations and proofs of the respective parties, and if upon such hearing he is satisfied that the claims of the petitioners can only be conveniently worked by means of the privilege prayed for, he shall make an order adjudging and awarding to the petitioner such right of way, and shall appoint three commissioners, who shall be disinterested parties

and residents of the county, to assess the damages resulting to the lands or claims affected by such order.

SEC. 6. The commissioners so appointed shall be sworn or affirmed to faithfully and impartially discharge their duties, and shall proceed without unreasonable delay to examine the premises, and shall assess the damages resulting from such right or privilege prayed for, and report the amount of the same to the judge appointing them; and if such right of way shall affect the property of more than one person or company, such report shall contain an assessment of damages to each company or person.

SEC. 7. For good cause shown, the judge may set aside the report of such commissioners, and appoint three other commissioners whose duties shall be the same as above mentioned.

SEC. 8. Upon the payment of the sum assessed as damages as aforesaid, to the persons to whom it shall be awarded, or a tender thereof to them, then the person or persons petitioning as aforesaid shall be entitled to the right of way, as prayed for in their or his petition, and may immediately proceed to occupy the same, and erect thereon such works and structures, and make therein such excavations as may be necessary to the use and enjoyment of the right of way so awarded.

SEC. 9. Appeals from the assessment of damages made by the commissioners, may be made and prosecuted in the proper district court by any party interested, at any time within ten days after the filing of the report of the commissioners, and a written notice of such appeal shall be served upon the appellee in the same manner as summons are served in civil actions. The appellant shall file with the clerk of the court to which the appeal is made, a bond with sureties to be approved by the clerk in the amount of the assessment appealed from in favor of the appellee, conditioned that the appellant shall pay any costs that may be awarded to the appellee, and abide any judgment that may be rendered in the cause.

SEC. 10. Appeals shall bring before the appellate court, only the property and the amount of damages, and may be tried by the court, or before a jury, as other cases in the court.

SEC. 11. The prosecution of any appeal shall not hinder, delay or prevent the appellee from exercising all the rights and privileges mentioned in section eight of this act; *Provided*, That the appellee shall file with the clerk of the court in which the appeal is pending, a bond with sufficient sureties to be approved by the clerk, in double the amount of the assess-

ment appealed from, conditioned that the appellee shall pay to the appellant whatever amount he may recover in the action.

SEC. 12. If the appellant recover fifty dollars more damages than the commissioners shall have awarded, or the appellee shall offer to allow judgment against him to be taken, the appellee shall pay the costs of the appeal, otherwise the appellant shall pay such costs.

SEC. 13. The costs and expenses of proceedings under the provisions of this act, except as herein otherwise provided shall be paid by the party making the application; *Provided, however,* That if the applicant shall before the commencement of such proceedings have tendered to the parties owning or occupying the lands or mining claims, a sum equal to or more than the amount of damages recovered by the defendant or defendants, then all of the costs and expenses shall be paid by the party or parties owning the lands or claims affected by such right of way, and who appeared and resisted the claim of the applicants thereto.

SEC. 14. This act to be in force and take effect from and after its passage; *Provided,* That this bill shall not apply to the counties of Boise, Idaho, Nez Perce and Shoshone counties.

APPROVED January 12, 1877.

AN ACT

To create a Sinking Fund, and to provide for the payment of certain moneys due to the School Fund from the General Fund of the County of Shoshone.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The county treasurer of Shoshone county is hereby authorized and directed, immediately after the passage of this act, to set aside twelve per cent. of the net proceeds of all moneys received for the use of the general fund of said county, to be placed in the school fund of said county to be disbursed as other school moneys for the benefit of the public schools.

SEC. 2. As soon as a sufficient sum of money shall have been received for the use of the school fund by virtue of this act equal to the principal and interest on all moneys converted to the use of the general fund belonging to the school fund of

said county, then this act to become void and no longer exist.

SEC. 3. An act entitled an Act to legalize certain proceedings of the board of county commissioners of the county of Shoshone, approved December 27th, A. D. 1866, be, and the same is hereby, repealed.

SEC. 4. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

SEC. 5. This act to be in full force and effect from and after its passage.

APPROVED January 4, 1877.

AN ACT

Regulating the Fees of certain Officers in Lemhi County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The sheriff of Lemhi county shall receive for collecting license and all other taxes put in his hands for collection and collected by him, ten per cent. of the county proportion of such taxes, and the further sum of six per cent. of the territorial proportion of such taxes by him collected; all of which shall be paid out of the county proportion of such taxes.

SEC. 2. The assessor and collector shall receive the per diem for assessing that is now allowed by law, and he shall receive the per centage for collecting the county proportion of all taxes by him collected as is now allowed by law, and the further sum of four per cent. of the territorial proportion of the taxes by him collected in Lemhi county; all of which shall be paid out of the county treasury and out of the county proportion of the territorial and county revenue.

SEC. 3. The auditor of Lemhi county shall receive a salary of six hundred dollars per annum, to be paid quarterly out of the county treasury, less three per cent. allowed by law to said auditor out of the territorial revenue collected in said county.

SEC. 4. Nothing in this act shall be so construed as to prevent the sheriff and assessor and collector from receiving the per centage to which they are entitled by law out of all moneys collected by them for territorial purposes.

SEC. 5. This act shall take effect and be in force from and after its passage.

APPROVED January 10th, 1877.

AN ACT

Relating to the discovery of Gold and Silver Quartz lodes in Lemhi County, and the manner of their location.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That any person or persons who may hereafter discover any quartz lead or lode within the boundary of Lemhi county, in this Territory, shall locate and represent the same in accordance with the act of congress entitled, "An act to promote the development of the mineral resources of the United States," approved May 10th, 1872.

SEC. 2. All quartz claims hereafter located in the county of Lemhi shall be recorded in the recorder's office of said county by filing with the recorder a copy of the notice placed on the lead, or lode, or a similar notice, within ten days after the location of such lead or lode; and the recorder shall record the same in a book kept for that purpose, called the book of quartz claims, to which there shall be full and complete duplicate index kept by the recorder; and the recorder shall be entitled to receive a fee of twenty-five cents for filing each notice, one dollar for each claim recorded, and twenty-five cents for indorsing each name in the notice recorded: *Provided*, That if said lead or lode be more than thirty miles from the county seat of said county, then the time for recording the same may extend to twenty days. And all persons recording any claims shall take an oath that said claim has not heretofore been located according to law, or if so located, the said claim has been abandoned or forfeited by non-fulfillment of the requirements of law; and the county recorder, or any justice of the peace, or any other officer of the county by law authorized, may administer said oath, which shall be recorded with the notice of location: *Provided*, That when two or more persons may join in the location of a claim, the oath of one of the locators shall be sufficient.

SEC. 3. Any person or persons who may desire to run a tunnel into any hill or mountain for the purpose of discovering or working mineral bearing quartz leads or lodes shall be entitled to hold three hundred feet square at the entrance of said tunnel, for building, dumping, or other necessary purposes: *Provided*, That nothing in this act shall be so construed as to invalidate the vested rights of other persons.

SEC. 4. The manner of locating tunnels shall be by a no-

tice at the entrance of the tunnel describing the line of the tunnel and of the dumping ground, which notice shall be signed by all parties interested; and a similar notice shall be recorded in the office of the county recorder, and the recorder shall receive a fee of two dollars for recording said notice.

SEC. 5. Any person or persons who shall willfully and maliciously tear down or destroy any notice posted on quartz claims or tunnels, or tear up or destroy any stake, tree or monument, marking quartz claims or tunnels, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be fined in any sum not less than twenty-five dollars and not exceeding one hundred dollars, and by not less than thirty days imprisonment and not more than six months in the county jail, or by both such fine and imprisonment; and all justices of the peace, in said Lemhi county, shall have jurisdiction of such offenses.

SEC. 6. All quartz claims located in Lemhi county subsequent to the tenth day of May, 1872, in accordance with the mineral laws of the United States, are hereby exempted from the provisions of all the laws regulating the discovery, location and representation of quartz claims in this Territory.

SEC. 7. An act entitled, "An act relating to the discovery of gold and silver quartz lodes, and the manner of their location," approved January 12th, 1866, so far as its provisions apply to Lemhi county, be, and the same is hereby, repealed.

SEC. 8. This act shall take effect and be in force from and after its passage.

APPROVED January 9th, 1877.

AN ACT

Regulating the salary and fees of the Probate Judge of Shoshone county.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The probate judge of Shoshone county shall receive a salary of two hundred and fifty dollars per annum, to be paid quarterly out of the general fund of said county, to be audited and allowed as other claims against said county are audited and allowed.

SEC. 2. Nothing in this act shall be so construed as to prohibit the probate judge of said county from receiving the

same fees as probate judge and ex-officio clerk of the probate court, as are received by the probate judges of other counties of this Territory.

SEC. 3. All acts and parts of acts, so far as they conflict with the provisions of this act, are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

APPROVED December 26, 1876.

AN ACT

To compensate James D. Agnew, Sheriff of Ada County, for services rendered for the Territory of Idaho and for actual expenses incurred in the arrest of one Edward Stock, convicted of the crime of murder, and a fugitive from the justice of Idaho Territory, in the State of California, upon a Requisition made by the Governor of Idaho on the Governor of California, on the 18th day of July, A. D. 1876.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows

SECTION 1. That the sum of fourteen hundred and sixty-eight dollars and eighty-eight cents (\$1468.88) be, and the same is hereby allowed, out of any moneys in the territorial treasury not otherwise appropriated, to James D. Agnew, for services rendered and expenses incurred in pursuance of the requisition made by the governor of Idaho for the arrest of Edward Stock, a fugitive from the justice of Idaho in the State of California.

SEC. 2. And that the said James D. Agnew be, and he is hereby, empowered to demand and receive a warrant on the territorial treasury for the said service.

SEC. 3. This act shall take effect and be in force from and after its approval by the governor.

APPROVED January 4, 1877.

AN ACT

Fixing the Compensation of Auditors in the counties of Nez Perce, Idaho, and Shoshone.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The county auditors of the counties of Nez

Perce and Idaho shall hereafter each be entitled to and receive the sum of one thousand dollars per annum for all services required by law to be rendered or performed by them as auditor for the territory and county; and the auditor of Shoshone county shall be entitled to and receive the sum of six hundred dollars per annum for all services required by law to be rendered or performed by him as auditor for the territory and county; said several sums to be audited and allowed by the county commissioners of their respective counties, payable quarterly out of the general fund as other claims against said fund, except as otherwise herein provided.

SEC. 2. For all services rendered the territory the auditors of Nez Perce, Idaho and Shoshone counties, shall be entitled to and shall receive such fees as are allowed by law for such services; but the total amount of such fees so received from the territory during each quarter shall be deducted from the amount made due and payable to the auditor by the provisions of this act for that quarter, and the county commissioners shall allow to the auditor, out of the general fund of the county, the balance found due after such deduction has been made.

SEC. 3. The county auditors of the above named counties shall not receive from the county or Territory any other salary or fees rendered as auditor, than such as are allowed by the provisions of this act.

SEC. 4. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

APPROVED January 11, 1877.

AN ACT

To compensate Charles M. Hays, for services rendered and expenses incurred in going for and bringing M. C. Hughes, charged with the crime of murder, from Elko, in the State of Nevada, to the county jail of Owyhee county, in the Territory of Idaho, upon a Requisition of the Governor of Idaho Territory, in the month of February, A. D. 1876.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the sum of six hundred dollars be, and the same is hereby allowed, out of any moneys in the terri-

terial treasury not otherwise appropriated, to Charles M. Hays, for services rendered and expenses incurred in the arrest and return of the said M. C. Hughes.

SEC. 2. And that the said Charles M. Hays be, and he is hereby empowered to demand and receive a warrant on the territorial treasury for said sum.

SEC. 3. This act to take effect upon its approval by the Governor.

APPROVED, January 9, 1877.

AN ACT

To provide for the Redemption and prescribing the manner of Redeeming the Outstanding Warrants drawn upon the Treasurer of Nez Perce county, and to provide for the payment of all current expenses of said county.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. All taxes levied and collected for county purposes in Nez Perce county under and by virtue of the laws of this Territory, including all licenses and revenues from all other sources, except those set apart for school, hospital, and road funds, shall be apportioned as follows: Forty-five per cent. to the current expense fund, and fifty-five per cent. to the redemption fund.

SEC. 2. The said current expense fund shall be applied to pay the current expenses of the court-house and jail of said county, and such other lawful expenses as may be allowed by the county commissioners for lights, fuel, stationery and printing for county officers, and for bedding, food and clothing for prisoners, for which said county shall be liable and none other. The county commissioners shall order warrants drawn on said current expense fund for the purposes specified in this section only, and the same shall be paid out of any money in the treasury belonging to said funds.

SEC. 3. If, at the end of any fiscal year, there shall remain in the treasury any part of such current expense fund, or hospital fund, the same shall be immediately transferred to and become a part of the redemption fund of said county, and be expended as such.

SEC. 4. The redemption fund above mentioned shall be

divided in two portions: the first, consisting of ten per cent. thereof, which shall be applied to the satisfaction of the county warrants of said county in the order of their issuance.

SEC. 5. Ninety per cent. of the redemption fund shall be retained in the treasury and be applied to the purchase of the county warrants, as hereinafter provided.

SEC. 6. When as much as two hundred and fifty dollars of the ninety per cent. fund to be applied to purchase county warrants, as aforesaid, shall have accumulated, the county treasurer shall give notice by posting notices in three or more public places in said county, that on a day specified in said notice, which shall not be less than twenty days from the date of said notice, that he will, on the day so specified, apply said money to the purchase of the county warrants of said county, from any person or persons offering to sell the same at the lowest rate, and that any person or persons desiring to sell a warrant or warrants shall enclose the same, with a written offer of the rate said holder proposes to sell the same, in a sealed envelope, and deposit the same with the treasurer.

SEC. 7. At the time and place designated in the notice mentioned in the last section, the county treasurer shall publicly open each of said sealed proposals to sell, read the same aloud, and make an entry, on a book kept for that purpose, of each warrant, specifying the number and amount thereof, and the rate at which the same is offered, specifying those offered at the least price and those to which the money is applied to purchase, and the amount thereof, and shall apply the money on hand to the purchase of the warrants offered for the least price: *Provided*, That not more than the par value shall be paid in any case.

SEC. 8. If the money, when applied as aforesaid, shall be insufficient to pay the whole of any warrant or warrants, then the treasurer shall indorse on such warrant or warrants the amount paid thereon, and the date of payment, and shall enter the same in said book, stating the number and amount of such warrants, and the amount paid thereon, and the date of payment. If any such warrant is entirely paid, then the treasurer shall retain such warrant after endorsing thereon the time it was canceled and amount paid, and make an entry on his said book to the like effect. All warrants not entirely purchased shall be returned to their respective owners.

SEC. 9. Within two days after the purchase of warrants or application of payments thereon, as aforesaid, the county treasurer shall make out a transcript of said book and deliver the same, together with the warrants purchased, to the clerk of

the board of county commissioners, and shall receive a receipt therefor, and the said clerk shall produce the same at the next session of the board of county commissioners for their action.

SEC. 10. The board of county commissioners shall carefully inspect such returns, and if defective, shall cause the same to be corrected, after which it shall be made a matter of record with the number and amount of each warrant so returned; such warrants shall then be publicly destroyed. The county commissioners shall have the date and manner of their destruction entered in their journal.

SEC. 11. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 2. This act shall take effect and be in force from and after its passage.

APPROVED January 8, 1877.

AN ACT

To amend an Act entitled, "An act concerning Roads and Highways in Boise county." Approved January 10th, A. D. 1873.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That section 2 of said act be amended to read as follows: Section 2. The board of county commissioners of said county shall at least four weeks prior to the regular meeting of said board in July, biennially cause notice to be published in some newspaper published in said county, if any, and if not in an adjoining county, for at least three weeks, for sealed proposals to be received by the said board for keeping in repair and improving the public roads and highways in said county, for the respective districts, separately; and each proposal or bid so submitted to the board shall be accompanied with a bond, conditioned for the well and faithful performance of such contract as may be made and entered into, by and between the person or persons making the proposal or bid; and the board of county commissioners in a sum not less than double the amount bid and stated in such proposal for the improvement and keeping in repair of the roads and highways within the district proposed; two (2) or more sureties to be on such bonds, who shall justify in the same

form and manner as is required of sureties on the official bonds of county officers.

SEC. 2. That section 3 of said act be amended so as to read as follows: Section 3. At the time to be stated in the notice, the board of county commissioners shall open and examine the proposals or bids, together with the accompanying bonds, and award to the lowest responsible bidder the contract for each road district separately, for the keeping in repair and improving the public roads and highways in such districts, for the term of two years, from and after the date of the awarding of such contract by the board of county commissioners.

SEC. 3. That the board of county commissioners of said county shall at the regular meeting of said board in January, 1877, let special contracts to the lowest responsible bidders, for the keeping in repair and improving the public roads and highways in said county in the road districts in said county, separately; such contracts to expire upon the day of the awarding of the contracts in July, 1877, by said board; and the clerk of the board of county commissioners of said county shall post notices in at least five of the most public places in said county, not less than ten days before the regular meetings of said board in January, 1877, asking for sealed proposals for so keeping in repair and improving such roads and highways in the respective districts of said county, and all proposals or bids under such notice shall be accompanied with bonds, conditioned as provided by section 1 (one) of this act.

SEC. 4. The board of county commissioners may in its discretion accept or reject any or all of such bids or proposals, when it appears to the satisfaction of the board that such bid or bids are of an exorbitant character, or that the best interests of the county would be subserved by such acceptance or rejection, as the case may be.

SEC. 5. No warrant shall be drawn in favor of any person awarded a contract under the provisions of this act, until such person shall have procured from at least one member of the board of county commissioners and filed with the recorder and *ex-officio* clerk of the board a certificate to the effect that such contractor has kept in repair and improved the public roads and highways embraced in his contract.

SEC. 6. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 7. This act shall take effect and be in force from and after its passage.

APPROVED, December 22, 1876.

AN ACT

To provide for the levying and collecting of a Hospital Tax in Shoshone county.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The board of county commissioners of Shoshone county, are hereby empowered and required to levy, and cause to be collected in the same manner and at the same time as other per capita taxes, and by the same officer provided by law for the collection of per capita taxes, a special per capita tax of two dollars for each and every taxable inhabitant in said county. Said tax, when collected, to be appropriated to the care and maintainance of the indigent sick, idiotic and insane persons in said county.

SEC. 2. An act entitled, "An act to provide for the levying and collecting of a hospital tax in Shoshone county," approved January 4, A. D. 1871, is hereby repealed.

SEC. 3. The county of Shoshone is hereby exempted from the operations of the provisions of an act entitled, "An act to provide for the annual transfer of moneys in the hospital funds of Alturas and Shoshone counties to other funds of their respective counties," approved January 8th, A. D. 1873.

SEC. 4. This act shall take effect and be in force from and after its passage.

APPROVED, December 16th, 1876.

AN ACT

To repeal all previous Acts fixing the Compensation of Probate Judge of Nez Perce County, and to provide the Compensation which he shall receive.

Be it enacted by the Legislative Assembly of the Territory of Idaho:

SECTION 1. That the probate judge of Nez Perce county shall retain all fees he may receive as probate judge and ex-officio clerk of the probate court, and shall receive, in addition thereto, to be paid quarterly, such sum, not to exceed five hundred dollars per annum, as the board of county commissioners

of said county may, in their discretion, allow; and no compensation or fees shall be allowed except as in this act provided.

SEC. 2. All acts and parts of acts in conflict with the provisions of this act, so far as they relate to Nez Perce county, are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED January 8th, 1877.

AN ACT

Fixing the Salaries of certain Officers in Ada County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The sheriff of Ada county shall receive a salary of fifteen hundred dollars per annum, to be paid quarterly out of the county treasury, for all services to be by him rendered or performed for said county. He shall also be allowed a jailer, for whose services he shall receive the sum of two dollars and fifty cents per day for each day a prisoner or prisoners is confined in the county jail. He shall also be allowed the sum of one dollar and twenty-five cents per day for each prisoner confined in the county jail as remuneration for board, clothing, and medical attendance of such prisoners; and he shall receive no other compensation for services rendered Ada county.

SEC. 2. The county auditor shall receive the sum of eight hundred dollars, payable quarterly out of the county treasury, for all services to be by him rendered to and for said Ada county, as auditor and clerk of the board of county commissioners: *Provided*, That for any services rendered the Territory he shall receive such fees as may be allowed by law.

SEC. 3. The county treasurer of said county shall receive the sum of six hundred dollars per annum, payable out of the county treasury quarterly, for all services to be rendered or performed by him for said county: *Provided*, That for any services rendered the Territory he shall receive such fees as may be allowed by law.

SEC. 4. The assessor of Ada county shall be ex-officio tax collector of Ada county, and is hereby authorized and empowered to receive and collect all per capita or poll taxes, as

provided by law, and he shall have the same power to enforce the payment of taxes that is provided by law for the collection of taxes by tax collectors of this Territory. The assessor shall be allowed as compensation for his services as assessor and tax collector fifteen per centum of all poll taxes for the county, and five per centum of all other taxes by him collected for the county, and of all taxes collected for the Territory such compensation as is allowed by law.

SEC. 5. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 6. This act to take effect and be in force from and after its passage.

APPROVED January 12, 1877.

AN ACT

To change the time of the meeting of the Legislative Assembly.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The legislative assembly of this Territory shall hereafter meet biennially, at the capital, on the second Monday in January, at twelve o'clock, M.

SEC. 2. This act shall take effect and be in force from and after its passage.

APPROVED January 11, 1877.

AN ACT

To authorize the construction of a Wagon Road from Squaw Creek to Miner's Bridge, in Boise County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. All that certain part of Boise county, in this Territory, north and west of Miner's bridge, across the Payette river, in said county, is hereby exempted from the provisions and requirements of an act entitled, "An act concerning roads and highways in Boise county," approved January 10th, 1873,

and all acts supplementary to or amendatory of said act; and said section of Boise county shall constitute a road district, to be known as the Squaw creek road district.

SEC. 2. Cal Baird, of Squaw creek, in said county, is hereby made and constituted the road supervisor of said Squaw creek road district, and his duties, powers, and obligations, shall be as follows: First—He shall levy and collect from all able-bodied men, in said district, a road tax of three dollars, to be collected in the same manner and under the same process for the enforcement of the payment thereof as other per capita taxes are levied and collected in said county by the tax collector thereof. Second—He shall apply said taxes so collected, and all other sums appropriated by this act for such purpose, to the construction of a wagon road from Cal Baird's ranch, on Squaw creek, to Miner's bridge, across the Payette river, in said county. Third—He shall receive for collecting said taxes ten per centum thereof, in full compensation therefor. Fourth—Before entering upon the performance of his official duties he shall file a bond in the sum of two thousand dollars conditioned for the faithful performance of his duties, said bond to be secured by two or more sureties, who shall justify in the same form and manner as is required on the bonds of county officers.

SEC. 3. The board of county commissioners of Boise county are hereby authorized, directed and required, to order to be paid, upon demand being made by him therefor, from the road fund of said county, to the said road supervisor or his successor in the office, the sum of one hundred dollars yearly, on the first Monday of April, in the years 1877 and 1878; said sum to be applied as in the second section of this act provided.

SEC. 4. Messrs. G. Miner and Robert Barber are hereby appointed to act with the said road supervisor and constitute a board of road viewers, who shall define the line of said road proposed to be built; and said road viewers shall each receive the sum of ten dollars for said services, to be paid out of the special road fund herein provided by the road supervisor.

SEC. 5. Should the road supervisor provided for in this act fail to well and faithfully perform the duties of his office, he shall, upon a sufficient showing thereof being made to the board of county commissioners of said county, be removed from his office and a successor be appointed by said board; and should the road supervisor die, or resign, or remove from said road district, his successor shall be appointed by the said board of county commissioners.

SEC. 6. This act shall take effect from the date of its passage, and shall continue in full force and effect until the first day of January, A. D. 1879, and thereafter shall be null and void.

APPROVED January 8, 1877.

AN ACT

Regulating the compensation and fees of Officers in Bear Lake County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. Each county commissioner of Bear Lake county shall receive the sum of four dollars per day, for each day's services rendered said county, to be paid quarterly out of the county treasury; and they shall not receive any other compensation for their services.

SEC. 2. The assessor of said county shall receive the sum of four dollars per day, for each and every day in which he is necessarily employed as county assessor, and shall receive no mileage for such services; *Provided*, That for any services rendered the Territory, he shall receive such compensation as may be allowed by law.

SEC. 3. All county officers of said county who are by law allowed mileage fees shall receive twenty cents per mile, and no greater sum for the distance traveled; *Provided*, That they shall receive such sum for the distance both going and returning.

SEC. 4. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 5. This act to take effect and be in force from and after its passage.

APPROVED January 9, 1877.

AN ACT

Authorizing and directing the collection of Hospital tax in Nez Perce County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The county commissioners of Nez Perce county are hereby authorized and directed to levy, and cause to be collected, annually, a per capita tax of two dollars each, from all persons in said county liable to pay poll tax; and all money so collected shall be placed in the Hospital Fund for hospital purposes. Said tax to be levied and collected at the same time and in the same manner as the personal property tax in said county is levied and collected; and the assessor of said county is hereby authorized and directed to collect said hospital tax, for which service he shall receive the sum of fifteen per centum of all money so collected.

SEC. 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED January 9th, 1877.

AN ACT

Relating to Houses of Ill-fame in Boise City.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the mayor and common council of Boise City, Ada county, Idaho Territory, are hereby authorized and empowered to regulate, fix the location of, or abolish all bawdy-houses, houses of ill-fame, or houses kept for purposes of prostitution, situated or kept within the corporate limits of said Boise City.

SEC. 2. That any person occupying, residing in, or keeping a bawdy-house, house of ill-fame, a house kept for the purposes of prostitution, within any part of the corporate limits of said Boise City, other than that prescribed by ordinance of the mayor and common council of said city, shall be guilty of a

misdeameanor, and on conviction thereof shall be fined in any sum not less than one hundred dollars, or imprisoned in the county jail not less than six months, or by both such fine and imprisonment, together with costs of suit.

SEC. 3. That when any person is accused of occupying, residing in, or keeping a bawdy-house, house of ill-fame, or house kept for purposes of prostitution, evidence of the general reputation of the house as such in the neighborhood in which the house is situated shall be sufficient to establish the character of the house; and the purpose for which it is kept or used.

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after the date of its passage.

APPROVED January 12, 1877.

AN ACT

To amend an Act entitled, "An act creating the Board of County Commissioners, and defining their duties and powers." Approved January 15th, 1875.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That division eight of section nineteen of an Act entitled, "An act creating the board of county commissioners, and defining their duties and powers," shall be amended so as to read as follows: To establish and change election precincts, and to appoint judges of election, and designate places for holding the same; *Provided*, That no election precinct shall be established or changed after the regular July term of said board of commissioners next preceding any general election.

SEC. 2. This act shall take effect and be in force from and after its passage.

APPROVED, January 11th, 1877.

AN ACT

Providing for the transfer of jurisdiction and papers in certain cases, from the Probate Court in Nez Perce county to the Probate Court of Idaho county.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That in all cases wherein the probate court of Nez Perce county has the custody of papers or jurisdiction of estates situated in Idaho county, or where the executors, administrators or guardians reside in Idaho county, such custody and jurisdiction is hereby transferred to the probate court of Idaho county, and it shall be the duty of the probate judge of Nez Perce county, on demand made by the probate judge of Idaho county, to prepare a complete transcript of all the records of his court in such cases, or any part thereof, that may be designated by said probate judge of Idaho county, and transmit the same, together with all the papers therein, to the probate court of Idaho county, for which he shall receive from Idaho county payment at the rate of making transcripts now allowed by law.

SEC. 2. It shall be the duty of the probate judge of Idaho county, immediately upon the receipt of such transcript and papers, to enter such transcript upon his records, and file such papers in his court, whereupon such transcript so entered and papers so filed shall be deemed the records and files of the probate court of Idaho county, and such court shall have full jurisdiction of all proceedings in such cases.

SEC. 3. This act to take effect and be in force from and after its passage.

APPROVED January 2, 1877.

AN ACT

Defining the boundary line between Alturas and Oneida counties.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The boundary line between Alturas county

and that part of Oneida county lying north of Snake river, is hereby fixed and defined to be as follows: Beginning at a point on Snake river due south of the center of Mud lake, otherwise known as the "Sink of Camas creek," and running from said point on Snake river due north through said lake to the south line of Lemhi county.

SEC. 2. This act shall take effect and be in force from and after its passage.

APPROVED January 8th, 1877.

AN ACT

To amend "An act concerning District Attorneys."

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. Section five of an act concerning district attorneys, approved January 14, 1875, is so amended that the salaries of district attorneys shall be audited by the controller and paid upon his warrant, instead of upon the order of district judges.

SEC. 2. This act shall be in force from and after its passage.

APPROVED January 11, 1877.

AN ACT

Regulating the salary of the County Treasurer of Oneida County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The county treasurer of Oneida county shall receive the sum of five hundred dollars per annum, payable quarter yearly out of the county treasury, in lieu of the fees now provided by law, for all services to be rendered or performed by him for said county: *Provided*, That for any services rendered the Territory he shall receive such fees as may be allowed by law.

SEC. 2. The amounts provided for by this act shall be audited and allowed in like manner as other claims against said county.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED January 11, 1877.

COUNCIL CONCURRENT RESOLUTION.

Resolved by the Council, the House of Representatives concurring, That the sum of twenty-five dollars, for subpoenaing witnesses, and mileage therefor, and the sum of two dollars and a half for rent of postoffice box for the use of the council, is hereby appropriated, out of any moneys in the treasury not otherwise appropriated, to Wm. B. Biggerstaff, sergeant-at-arms of the council; and the controller is authorized and directed to draw his warrant on the treasurer in favor of Wm. B. Biggerstaff for the sum of twenty-seven and one-half dollars, and the treasurer is directed to pay the same out of any moneys not otherwise appropriated. Further, for the expenses of carriage or hack hire incurred by said committee in going to and returning from the U. S. prison, to the amount of seven dollars, that the controller is hereby authorized to draw his warrant on the territorial treasurer in favor of James D. Agnew, for said amount, to be paid out of any funds not otherwise appropriated.

Passed the House of Representatives January 12th, 1877.

F. J. CURTIS, Speaker.

Passed the Council January 12th, 1877.

E. T. BEATTY, President.

House of Representatives, }
Boise City, I. T., Jan. 12, 1877.

I hereby certify that the foregoing council resolution was transmitted to the house from the council on Jan. 12th, 1877, together with the objections of the governor thereto. The question being, "Shall the resolution pass notwithstanding the objections of the governor?" the ayes and nays were called as follows:

Ayes—Cleary, Davis, Dempsey, Edwards, Froman, Gil

more, Gray, Griffin, Hammond, Hart, Hartly, Luney, McCaleb, Moore, Morse, Meyer, Tutt, Ward, Weiler, Wood—20.

Nays—Messrs. High, Points, Richards and Warriner—4.

Absent—Mr. Norcross.

And so the resolution passed, notwithstanding the objections of the governor.

F. J. CURTIS,
Speaker of the House.

Attest:

T. D. CAHALAN, Chief Clerk.

—
Council Chamber,
Boise City, January 8, 1877. }

I hereby certify that the within council concurrent resolution No. 9, was this day returned to the council of the legislative assembly of Idaho Territory, by the governor thereof, with his objections to the bill. Thereupon the question being, "Shall the resolution pass notwithstanding the objections of the governor?" The ayes and nays were called as follows:

Ayes—Messrs. Baker, Dunwell, Higbee, Langford, Porter, Sidebotham, Tregaskis and Mr. President—8.

Nays—Messrs. Stevenson and Costin—2.

Absent—Messrs. Budge and Witt—2.

And so the resolution passed notwithstanding the objections of the governor.

E. T. BEATTY,
President of the Council.

Attest:

JAMES H. HAWLEY,
Chief Clerk of Council.

AN ACT

To amend the City Charter of Boise City.

Be it enacted by the Legislative Assembly of Idaho Territory, as follows:

SECTION 1. That the mayor and city council of Boise City are hereby authorized and empowered to organize said

Boise City into a road district by an ordinance passed for said purpose embracing the limits of said Boise City.

SEC. 2. The mayor and city council shall appoint a road supervisor, who shall hold his office at the will and pleasure of said city council, and be subject to the order of the mayor in the expenditure of money and labor, and give such bond for the discharge of his duties as said council may require.

SEC. 3. The mayor and city council are hereby authorized and empowered to levy an annual road tax on the first Monday of March in each year, of not to exceed two days' labor of ten hours on every actual resident male inhabitant of said Boise City between the ages of twenty-one years and fifty years, to be laid out and expended in improving the streets, alleys and public grounds and thoroughfares of Boise City; or, in lieu thereof, said inhabitant may pay to the road supervisor two dollars for each day's work so levied, to be expended on the streets, alleys, &c.

SEC. 4. The mayor and city council are authorized and empowered to pass such ordinances as may be necessary to enforce the payment, collection and expenditure of all road taxes levied by virtue of this act.

SEC. 5. This act to take effect and be in force from and after its passage.

APPROVED January 11, 1877.

AN ACT

Fixing the salary of the Probate Judge of Ada County and providing for the payment of the same.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the probate judge of Ada county shall have and be paid a salary of four hundred dollars per annum, in addition to the fees now allowed by law: *Provided*, The probate judge of said Ada county shall receive no other compensation for any services rendered for said Ada county.

SEC. 2. That such salary shall be allowed by the board of county commissioners of said county and paid quarterly out of the current expense and redemption fund of said Ada county.

SEC. 3. This act to be in force from and after its passage and approval by the governor.

APPROVED January 12, 1877.

AN ACT

Granting leave of absence to D. H. Howser, County Commissioner elect of Idaho county.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That D. H. Howser, county commissioner elect of the county of Idaho, be, and he is hereby, granted leave of absence from the county and Territory of Idaho for a period of three months during the years A. D. 1877 and 1878. The time of such absence to be selected by himself within such years, and such absence shall not create a vacancy in such office.

SEC. 2. This act shall take effect and be in force from and after its passage.

APPROVED December 12, 1876.

AN ACT

For the relief of Harry W. Stainton.

Be it enacted by the Legislative Assembly of the Territory of Idaho:

SECTION 1. That the county commissioners of Idaho county are hereby authorized, empowered and directed to audit and allow the just account of Harry W. Stainton for medical services rendered to Thomas Allgood, an indigent person who was sick with the small-pox at Florence, in said county: *Provided*, That the amount allowed shall not exceed two hundred and fifty dollars, and may be for such less sum as may be just; and the county commissioners aforesaid, in arriving at the just sum due, shall consider and deduct any sum which may have been paid him heretofore by any person whatever:

And provided, further, That an appeal may be taken from any order made by the commissioners, as in other cases.

SEC. 2. This act to take effect and be in force from and after its passage.

APPROVED, January 4th, 1877.

AN ACT

To change the name of Isaiah S. Watson to John Singleton Watson.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The name of Isaiah S. Watson, of Oxford, Oneida county, in this Territory, is hereby changed to John Singleton Watson.

SEC. 2. This act shall take effect and be in force from and after the first day of February, A. D. 1877.

APPROVED January 2, 1877.

HOUSE CONCURRENT RESOLUTION NO. 9.

Resolved by the House of Representatives, the Council concurring, That the secretary of the Territory be, and he is hereby, directed to distribute to each and every member of both houses (who may desire the same) one copy of the Revised and Compiled Laws of Idaho Territory; and he, the said secretary, is further directed to transmit by mail, as soon as they shall be printed, one copy of the Laws and Journals of the present session to each and every member of the present legislative assembly.

APPROVED January 12, 1877.

AN ACT

To change the name of William Hoakum to that of William Cleaver.

Be it enacted by the Legislative Assembly of Idaho Territory as follows:

SECTION 1. That the name of William Hoakum, a boy of twelve years of age, a resident of Ada county, I. T., be, and the same is hereby changed to that of William Cleaver, and that he be hereafter known and designated by that name.

SEC. 2. This act to be in force from and after its passage.

APPROVED, January 12, 1877.

HOUSE CONCURRENT RESOLUTION NO. 8.

Resolved by the House of Representatives, the Council concurring, That the sum of three hundred dollars be appropriated out of any moneys in the territorial treasury as compensation for J. H. Wickersham, the expert and clerk employed by the committee of ways and means of the house, and the finance committee of the council, to examine into and report upon the books and accounts of the various territorial officers, and the territorial controller is hereby authorized and directed to draw his warrant on the territorial treasurer for said sum of three hundred dollars in favor of said J. H. Wickersham, and the territorial treasurer is hereby authorized and required to pay the same out of any moneys in the territorial treasury not otherwise appropriated.

APPROVED January 12, 1877.

COUNCIL CONCURRENT RESOLUTION.

Resolved by the Council, the House concurring, That the sum of one hundred dollars be, and the same is hereby, appropriated and placed at the disposal of the governor of Idaho Territory annually to defray expenses of postage and expressage, and other expenses attending the transmission of books, maps and public documents for the Territory, and the controller is hereby authorized and required, on the certificate of

the governor that the bill is correct, to draw his warrant on the treasurer for such sum as may be certified to, not exceeding one hundred dollars per annum; and it shall be the duty of the treasurer to pay such warrants out of any moneys belonging to the Territory and not otherwise appropriated.

APPROVED January 12, 1877.

COUNCIL CONCURRENT RESOLUTION NO. 6.

Be it resolved by the Council of the Legislative Assembly of the Territory of Idaho, the House concurring, That the joint committee appointed under council concurrent resolution No. 3, be, and the same is hereby authorized and required to examine and report on all of the financial affairs of Idaho Territory, and to send for persons and papers, and examine witnesses under oath.

APPROVED, December 21, 1876.

COUNCIL CONCURRENT RESOLUTION.

Resolved by the Council, the House concurring, That the contract made July 28, 1876, by D. P. Thompson, governor, with J. A. Pinney & Co. for storing arms, be, and is hereby rescinded from and after the passage hereof.

APPROVED, January 12, 1877.

COUNCIL CONCURRENT RESOLUTION.

Resolved by the Council, the House concurring, That the governor be authorized to make suitable arrangement, or contract with the authorities of the United States, for the employment of territorial prisoners at such labor as will reduce or pay in part the cost of keeping them under the existing contract.

APPROVED, January 12, 1877.

COUNCIL CONCURRENT RESOLUTION NO. 4.

Resolved by the Council, the House of Representatives concurring, That a joint select committee of two from each House, be appointed, whose duty it shall be to examine into and report the number, kind and character of arms and accoutrements and quality of ammunition set aside by the general government, as the quota due Idaho Territory. How much of the same has been actually received, how much distributed, to whom and under what regulations, and the present number and amount on hand, with the condition of the same.

APPROVED, December 16, 1876.

COUNCIL CONCURRENT RESOLUTION NO. 3

Resolved by the Council, the House of Representatives concurring, That the committee on finance of the council, and the committee of ways and means of the house of representatives, be instructed to make a thorough investigation into the condition of affairs in the office of the territorial controller and treasurer, with power to send for persons and papers; and they are also empowered to employ an expert or clerk to assist said committee in such investigation, if necessary, and make their report at as early a day as possible.

APPROVED, December 16, 1876.

CONCURRENT RESOLUTION.

Resolved by the House of Representatives of the Territory of Idaho, the Council concurring, That Hon. E. J. Curtis, secretary of the Territory of Idaho, be, and he is hereby invited on behalf of the people of Idaho Territory, through their representatives assembled, to prepare a statistical and historical sketch of the history, resources, soil, climate, mineral and agricultural productions of this Territory, and submit the same to the next legislative assembly of Idaho; *Provided,* He shall receive no compensation whatever therefor.

APPROVED, January 12, 1877.

HOUSE CONCURRENT RESOLUTION NO. 3.

Resolved by the House of Representatives, the Council concurring, That a joint committee consisting of two members of the council, and three members of the house of representatives, be appointed to inquire into the condition of the territorial prisoners confined in the United States penitentiary near Boise City, and their treatment by the warden and other officers of the penitentiary. Said enquiry to embrace the nature of the supply of food, raiment and medical attendance provided for said prisoners, the kind of punishment inflicted upon them, when punishment is made necessary, the labor performed by them, the security of the prison in cases of attempts at escape, and all other subjects pertaining to the management of said penitentiary, so far as the case of the territorial prisoners confined therein is concerned. And the committee shall have power to send for persons and papers, swear and examine witnesses and take testimony; and they are further required to report at as early a day as practicable the result of their investigation, and the legislation needed to remedy any causes of complaint, if any exist; and any reasonable and necessary expenses, not to exceed the sum of fifty dollars, incurred by said committee in the course of their investigation shall be a charge upon the Territory, and be reported by the committee to the two houses for their future action.

APPROVED, December 22, 1876.

HOUSE MEMORIAL NO. 1.

To the Honorable, the Senate and House of Representative of the United States in Congress assembled:

Your memorialists, the legislative assembly of the Territory of Idaho, would respectfully represent, that the direct route from Fort Boise, situated at the Capital of the Territory, to Fort Lapwai, and the whole of Northern Idaho, is passable only on horse-back or with pack-trains; that the whole distance between said points is about two hundred and sixty-five miles.

There is from Fort Lapwai southerly to White Bird Creek, a distance of seventy-five miles, a good road, thence ninety miles, the only communication is by trail to the head of

Upper Weiser valley, thence one hundred miles to Fort Boise there is a good wagon road.

The route will shorten the distance between the two posts one hundred and twenty-five miles; will lead through the tract of country occupied by the Weiser Indians, and a large portion of the Nez Perces, who are located on Salmon river, and have never been prevailed upon to go upon the Nez Perce reservation.

Your memorialists further represent, that the people inhabitants of the counties of Idaho, Nez Perce and Shoshone, constituting Northern Idaho, labor under very great inconveniences in obtaining access to the seat of government of the Territory.

That while by the proposed route the distance from some of the northern counties would not exceed two hundred miles; yet by the present route of travel through Washington Territory and Oregon to Boise City the distance is five hundred and fifty miles.

That the building of a road over the route indicated, connected with the said roads in Northern and Southern Idaho, thus creating a great thoroughfare between the two sections of the Territory, would tend greatly to the development of the wealth and prosperity of the Nation, as well as the Territory, by affording means of transportation of supplies and machinery to the quartz regions of Warrens and Florence, already proved to be rich and extensive; and also opens up to settlement, and develop a vast country along the proposed route, rich in wealth, both in precious metals and for agricultural and stock-raising purposes.

Along the line of that portion of the route passable for team transportation, already thriving settlements have sprung up, and are prosperous in the various pursuits engaged in, toward the development of the latent wealth of this rich but isolated region.

That by the construction of said road, the government would be enabled to give sufficient protection to the settlers along the route from Indian depredations, and transport men, supplies and munitions to and from said military posts at moderate expenses.

And your memorialists further represent that the construction of said road from White Bird to the main Salmon, at a point opposite Little Salmon, thence up said stream to the Weiser Valley can be accomplished for the sum of eighty thousand dollars. And they earnestly pray your honorable

body to make an appropriation of that amount, for such construction. And your memorialists will ever pray.

The secretary of the Territory is requested to forward a copy of this memorial to the secretary of the interior, and to our delegate in congress.

APPROVED January 2, 1877.

COUNCIL MEMORIAL NO. 1.

To the Honorable, the Senate and House of Representatives of the United States of America, in Congress Assembled :

Your memorialists, the council and house of representatives of the Territory of Idaho, respectfully show that they earnestly desire to promote the important interests of the residents of Idaho Territory, as well as the special interests of the people who live upon the route of the proposed Portland, Dalles and Salt Lake railroad ; and that a bill is now pending before your honorable bodies designed to hasten the construction of such road. That the bill in question does not call for any subsidy or land grant from the general government, but merely proposes a contract with the general government to receive therefrom certain guarantees in lieu of services to be rendered in transportation of mails, etc.; all of which more fully appear by reference to the bill itself.

Your memorialists respectfully represent that the people living in every portion of the Territory are vitally interested in the construction of the proposed railroad, and in the above mentioned bill, as promotive thereof, and pray your honorable bodies to consider it favorably.

Your memorialists would further represent that the main settlements of Idaho Territory lying upon the tributaries of Snake river, are isolated from railroad communication at the nearest point, by distances of from two hundred to three hundred miles. We have no means of demonstrating to the country our great producing capacity, whether mineral or agricultural, and no prospect in the future of doing so, except by being brought into railroad communication with the rest of mankind. The consequence of the isolation above referred to has been that our fine climate, rich soil and great mineral wealth have not been able to attract immigration, while our own population has even decreased by the departure of those who are seeking more direct communication with the markets

of the world. Your memorialists further respectfully submit that the welfare of the territories of the United States is peculiarly the care of congress, made so by the constitution. That the powers of congress ought to be exercised fully to promote the growth and development of the territories, and fit them to assume the character of states. We claim that the territorial condition is an unnatural one for any political community of citizens of the United States, and only intended according to the theory and spirit of our system to be temporary. Over twelve years have passed since the Territory of Idaho was formed, and yet with unsurpassed natural advantages it is not so well qualified for admission as a state at the present time, so far as population is concerned, as it was ten years ago.

This is the legitimate result of the isolation before referred to. Within the past few years railroads have been built to the north, south, east and west of us, with sterile wastes stretching between us and the markets whence our supplies are drawn, our produced wealth is drained from us and circulated abroad to pay enormous rates of transportation. Nothing but our prolific mines and rich fields could have sustained us under this burden. Whilst our wealth is thus constantly going abroad it will be seen that we are powerless to foster this great national enterprise with our own means. Your memorialists firmly believe and confidently assert that with a railroad running down the great natural highway of the valley of the Snake river, the time will be short when Idaho will have the wealth and population to throw off its condition of territorial dependence, and assume its place among the sovereign states; while on the contrary without it the prospect is extremely dim that it will ever be able to do so.

Resolved, That our delegate in congress, Hon. S. S. Fenn, be, and he is hereby respectfully requested to secure the privilege in the house of Representatives of the United States of which he is a member, to print the memorial as above, and place a copy in the hands of the members of the senate and the lower house of congress, and to obtain for it an early consideration.

APPROVED January 8th, 1877.

MEMORIAL.

To the President and the Senate praying for a change of the Southern boundary of the Fort Hall Indian Reservation.

To His Excellency, the President, and the Senate of the United States :

Your memorialists, the legislative assembly of the Territory of Idaho, most respectfully and earnestly ask that the southern boundary of the Fort Hall Indian reservation in Oneida county, Idaho Territory, be changed and established as follows, to-wit: Commencing at the present initial point of the boundary the confluence of Port Neuf river with Snake river, as appears by the government maps and surveys in the interior department, (which are hereby referred to) running thence up the said Port Neuf river to the mouth of Pocotello creek, thence up said Pocotello creek to the source thereof, thence due east to the present eastern line of said reservation, and that all that part of the reservation, as it now exists south of and outside of the above boundary line, be set off from the reservation and be thrown open to settlement, for the following reasons: *First*—That the reservation as now established is very much larger and more extensive than is necessary for the number of Indians who are upon it; all that portion to be set off being neither occupied or used by the Indians. *Second*—That the portion to be set off is entirely useless for the purpose of a reservation, and as a matter of fact is not used or appropriated in any manner by the Indians. No Indians whatever live upon it. All the Indians reside and live on the rich lands about the Fort Hall Indian agency on Ross Fork, and along Snake river. *Third*—That the territory to be set off is mountainous, and is believed to be rich in mines of the precious metals. Miners have been driven off and not allowed to prospect thereon. *Fourth*—That prior to the establishment of said reservation, numerous settlers had located in said region to be set off and had built up homes, which they still occupy; and that nearly all the agricultural land had been taken up and claimed; that the settlers have no titles, and can get none, as long as the said region remains a part of the reservation, and are thereby deterred from making improvements which would otherwise be made; that simple justice demands that the settlers who have acted in good faith, and were first on the ground, be protected and their rights acknowledged and confirmed, especially as it does not interfere with the rights and

the occupation of the Indians. *Fifth*—That complications are continually arising as to the rights of property, the collection of taxes, the service on juries, the right to vote, etc., etc. All of which can be prevented and settled by setting off said portion, which is unused and is of no use whatever to the Indians, and is of vast importance, value and benefit to the settlers (already exclusively occupying it) and to the general interests of Oneida county and the Territory of Idaho. And your memorialists will ever pray.

APPROVED, January 11, 1877.

AN ACT

To amend an act entitled, "An act for the redemption of and prescribing the manner of redeeming the outstanding warrants drawn upon the treasurer of Alturas county, and further to provide for the payment of all current expenses of said Alturas county." Approved January 15th, 1869.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

That sections 1, 2, 3 and 4 of an act entitled, "An act to provide a fund for the redemption of and prescribing the manner of redeeming the outstanding warrants drawn upon the treasurer of Alturas county, and further to provide for the payment of all current expenses of said Alturas county," approved January 15th, A. D. 1869, and the acts amendatory thereof, be, and the same are hereby, amended to read as follows: Section 1. The board of county commissioners of Alturas county may, and they are hereby, authorized to levy, if in their opinion they deem it expedient or necessary, in addition to the other taxes provided by law, a special tax of not more than forty cents on each one hundred dollars of all the taxable property in said county. Said tax shall be collected as other taxes are collected, and at the same time and in the same manner, and paid into the county treasury for county purposes. Section 2. All taxes levied and collected for county purposes, except as provided in this and other laws, shall be paid into and constitute a fund, to be called "The current expense and redemption fund." Section 3. Fifty cents on each one hundred dollars of the taxable property of

said county, levied for county purposes, shall constitute the general fund of said county, and fifty cents the Alturas county court-house and county building fund. Section 4. All revenue collected from the following sources in said county, for county purposes, to-wit: From merchandise and liquor license, peddler's license, and all other licenses now or hereafter to be provided for by law, all fines and forfeitures, all receipts from toll bridges and ferries, and all poll taxes collected for county purposes, shall be paid into and constitute a part of the current expense and redemption fund.

That this act shall be in force and effect from and after its passage.

APPROVED January 5th, 1875.

AN ACT

To amend an act to incorporate Boise City, in Ada county, approved January 11th, 1866.

Be it enacted by the Legislative Assembly of the Territory Idaho, as follows:

SECTION 1. Section twelve (12) of the above-entitled act shall read as follows: Section 12. The mayor and common council shall have power to restrain and regulate the running at large of cattle, horses, swine, sheep, and other animals, within the limits of the corporation, and to authorize by ordinance the distraining, impounding and sale of the same for the penalty incurred, and costs of the proceeding; to prevent the running at large of dogs, and to authorize by ordinance the destruction of the same when at large contrary to any prohibition to that effect; and shall have power to regulate by ordinance the running of water through the streets, and to provide for the bridging of water ditches within the city limits by the owner thereof.

SECTION 2. This act to take effect and be in force from and after its passage.

APPROVED January 13, 1875.

AN ACT

Supplemental to an act entitled, "An act to provide for the disposal of lands in Boise City, Ada county, Idaho Territory, pursuant to the several acts of congress in such cases made and provided."

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The mayor of Boise City is hereby authorized and empowered to advertise and sell, in the manner and as hereinafter provided, all lots and blocks, or portions thereof, in said Boise City, for which a mayor's deed has been applied for, pursuant to the provisions of the act to which this act is supplemental, and which lots and blocks, or portions thereof, the parties claiming have not yet come forward and paid for and taken a deed for, as by said act required: *Provided*, Said lots and blocks, or portions thereof, are not paid for and deeds taken therefor within the time hereinafter specified.

SEC. 2. The mayor shall cause publication to be made for the space of thirty days, commencing within ten days from and after the passage of this act, in some newspaper published in Boise City, notifying claimants of lots and blocks, or portions thereof, in said Boise City, that he will, within ninety days from the date of the first publication of said notice, sell all lots and blocks, or portions thereof, within Boise City, for which a mayor's deed has not been taken, at public auction, to the highest bidder for cash, at some place in said Boise City to be designated in said notice, unless, prior to the expiration of said ninety days, such claimants or their agents shall come forward and pay the costs and charges and take a mayor's deed for their lots and blocks, or portions thereof. The amount to be paid by such claimants shall be as fixed by the act to which this act is supplemental, with ten per cent. added by way of costs. All amounts collected under the provisions of this act shall be paid into the treasury of Boise City.

SEC. 3. This act to take effect and be in force from and after its approval.

APPROVED January 15, 1875.

AN ACT

Relating to the recording of quartz claims in Owyhee and Alturas counties, and fixing the fees thereof.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The county recorders of Owyhee and Alturas counties shall be allowed to charge the fees now allowed by law for recording quartz claims: *Provided*, That when any quartz claim exceeds in length six hundred feet he shall not be allowed to charge more than five dollars therefor.

SEC. 2. This act to be in force from and after its passage.

APPROVED, January 15th, 1875.

AN ACT

For the protection of growing crops in the County of Ada.

Be it enacted by the Legislative Assembly of the Territory of Idaho:

SECTION 1. A bounty shall be paid out of the county treasury of Ada county of one cent for each rabbit ear produced before the board of county commissioners of said county: *Provided*, That the piece produced shall be from the tip of the ear, and not less than one inch in length, and that the rabbit from which the same was severed was killed within the county of Ada.

SEC. 2. Any person desiring to avail himself of the provisions of this act shall produce the ears before the board of commissioners at its regular session, and shall also file a verified account of the number of ears produced from rabbits killed in said county, and thereupon a county warrant shall be issued to such person upon the general fund for the amount of such account.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED January 9, 1875.

AN ACT

Relative to county officers, regulating their fees and salaries, in Nez Perce County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The county auditor of said county shall receive the sum of five hundred dollars per annum, payable quarterly out of the county treasury, for all services by him rendered to and for said county of Nez Perce: *Provided*, That for any services rendered the Territory he may receive the amount paid for such services for his own proper use and benefit, in full compensation for such services.

SEC. 2. Each county commissioner of Nez Perce county shall receive the sum of five dollars per day for his services, and the further sum of forty cents per mile, traveling fees, from his place of residence to the county seat, to be computed one way only, payable out of the county treasury.

SEC. 3. The county treasurer of said county shall receive a salary of four hundred dollars per annum, payable quarterly out of the county treasury, for all services to be rendered or performed by him for said county, to be paid as other demands against the county are paid: *Provided*, That for any services rendered the Territory he may demand and receive the amount paid by the Territory for such services, for his own proper use and benefit, in full compensation for such services.

SEC. 4. The county assessor of said county shall receive one mill on each dollar of property assessed by him and approved by the board of equalization of said county, payable out of the county treasury, to be paid in the same manner as other demands against the county; and shall receive no per diem, or mileage, or other compensation for his services, in making either original or subsequent assessment of said county; and he shall be allowed the fees provided by law for collecting per capita taxes and miscellaneous taxes, and six per cent. for collecting property taxes, with the exception of school tax on the original assessment roll, and eight per cent. for collection of the tax on all subsequent assessments, with the exception of school tax.

SEC. 5. The probate judge of said county shall receive a salary not to exceed one thousand dollars per annum, to be paid quarterly, after the deduction hereinafter provided, as follows: It shall be the duty of the probate judge, both as judge

and also as ex-officio clerk of the probate court, to keep an account of all fees received by him from all and every source, and at each regular meeting of the board of county commissioners, make to them a full report thereof, verified by his oath, whereupon they shall deduct from said quarter's salary, the amount set out in said verified report, and also any excess that said probate judge may have in fees over the amount of a quarter's salary, as provided in this act, for any previous quarter during his term of office, which had not been previously deducted; and thereupon the county auditor shall draw his warrant on the county treasurer for the balance of said quarter's salary when so adjusted.

SEC. 6. The sheriff of said county shall be allowed six per cent. for collecting property taxes in said county of Nez Perce.

SEC. 7. That M. M. Williams and J. H. Evans having received the highest number of votes, at the last general election in said county, for the office of county commissioners, their election is hereby validated, and they are hereby declared county commissioners of said county for the term of two years from the first Monday in January, A. D. 1875.

SEC. 8. The board of county commissioners are hereby prohibited from levying a hospital tax in said county of Nez Perce.

SEC. 9. The several salaries provided by this act shall be allowed and audited and paid as other claims against the county are audited, allowed and paid, except as herein provided regarding the salary of the probate judge.

SEC. 10. An act approved January 10th, A. D. —, and all acts contravening this act, are hereby repealed.

SEC. 11. This act to take effect and be in force from and after its passage.

APPROVED January 15, 1875.

AN ACT

To restrain the herding of sheep.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. It shall not be lawful for any person or persons owning or having charge of sheep to herd the same,

or permit them to be herded, on the land or possessory claims of other than the land or possessory claims of the owners of such sheep; nor shall they herd the same or permit them to graze within two miles of the dwelling house of the owner or owners of such possessory claim.

SEC. 2. The owner or owners, or the agents of such owners of sheep violating the provisions of section one of this act, on complaint of the party or parties injured, and on conviction thereof before any justice of the peace for the precinct where either of the interested parties may reside, shall be deemed guilty of a trespass, and shall be liable to the party injured for all damages sustained by such trespass; and if the trespass be repeated by the owner or the owners, or the agent or agents of such owners of sheep, he or they shall be liable to the party injured for the second and every subsequent offense or trespass for double the amount of damages of such trespass.

SEC. 3. When the owner or owners, or the agent or agents of such owners of sheep found trespassing upon the land or possessory claims of another, or within two miles of the dwelling house of the claimant or occupant of such possessory claim, shall be unknown to the party or parties injured by such trespass, then all sheep so trespassing may be treated as estrays, according to the provisions of an act upon that subject.

SEC. 4. This act to be applicable to Alturas, Ada and Boise counties only.

SEC. 5. This act to take effect and be in force from and after its passage.

APPROVED January 14, 1875.

AN ACT

Regulating the salaries and fees of certain officers of Alturas County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The county auditor shall receive the sum of one thousand dollars per annum, payable quarterly out of the county treasury, for all services to be performed by him for said county as auditor, recorder, county clerk, and clerk of the board of county commissioners: *Provided*, That for any ser-

vices rendered the Territory he shall receive such fees as may be allowed by law.

SEC. 2. The county treasury of said county shall receive the percentage allowed by the general revenue law, and retain the same out of the moneys received and disbursed by him: *Provided*, That said per centage shall not exceed the sum of three hundred dollars for any one year; and when the per centage reaches said sum he shall from that time receive and disburse all moneys, and perform all the duties of said office without further charge or compensation to the county for that year.

SEC. 3. The per diem allowed the assessor of said Alturas county shall be fixed by the board of county commissioners: *Provided*, That said allowance shall not exceed eight dollars per day, nor be less than six dollars per day: *And provided, further*, That said assessor shall not be paid for more than fifty days in which to make the assessment of said Alturas county. For the collection of all taxes by him to be collected he shall receive the compensation allowed by law.

SEC. 4. The amounts allowed under the provisions of this act shall be audited and allowed as other claims against the county by the board of county commissioners at their regular meetings, excepting the per centage allowed the county treasurer, which shall be paid as in this act provided.

SEC. 5. That all other acts and parts of acts in conflict with the provisions of this act, are hereby repealed.

SEC. 6. This act to take effect and be in force from and after its passage and approval by the governor.

APPROVED, January 14th, 1875.

AN ACT

To amend and repeal certain sections of an act entitled, "An act to incorporate the town of Lewiston." Approved December the 27th, A. D. 1866.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That section nineteen of an act entitled, "An act to incorporate the town of Lewiston," approved December 27th, A. D. 1866, be amended so as to read as follows: Section 19. The city of Lewiston shall constitute a separate road dis-

tract. The authority relating to roads and highways therein, heretofore vested in the board of county commissioners of Nez Perce county, is hereby transferred to the common council of said city: *Provided*, That the inhabitants thereof shall not be exempt from the payment of highway labor tax for the benefit of the public roads within the present road district in which said city is situated.

SEC. 2. That section twenty of said act be, and the same is hereby, repealed.

SEC. 3. This act to take effect and be in force from and after its passage and approval by the governor.

APPROVED January 5, 1875.

AN ACT

To provide for the purchase by the Territory of Idaho of the new Compiled and Revised Code of Laws of Idaho Territory, and for the payment therefor.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The controller is hereby authorized to draw his warrant or warrants in favor of E. J. Curtis, attorney and counselor at law, for the sum of three thousand five hundred dollars on the general fund of this Territory, payable out of any moneys in said fund not otherwise appropriated, as payment in full for the new compiled and revised code.

SEC. 2. Before delivering the warrant or warrants mentioned in section one of this act, the said E. J. Curtis shall file in the office of the controller of Idaho Territory a good and sufficient bond in the sum of five thousand dollars, with two or more sufficient sureties, to be approved by the governor of the Territory, conditioned that he will complete a full index, head notes, and properly number the chapters and subdivisions of the said compilation, and all the laws of this Territory, including the laws of the Eighth Session thereof, in a skillful manner, and prepare the same for the printer, with full marginal notes to the same.

SEC. 3. The said sum of three thousand five hundred dollars is hereby appropriated out of any moneys in the general fund of the treasury not otherwise appropriated, to pay said warrant or warrants.

SEC. 4. This act shall take effect and be in full force from and after its approval by the governor.

APPROVED December 28, 1874.

AN ACT

To repeal certain Acts fixing the salaries and fees of certain Officers of Boise County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows :

SECTION 1. That an act entitled "An act fixing the fees and salaries of certain officers of Boise county," approved January 13th, A. D. 1871, also an act entitled "An act fixing the salaries and fees of certain officers of Boise county," approved January 15th, A. D. 1869, be, and the same are hereby, repealed.

SEC. 2. That the district attorney shall receive such compensation for all services to be rendered or performed by him for said county as provided by an act creating the office of district attorney in each of the organized judicial districts of Idaho Territory, and defining their duties, privileges and powers, and fixing their compensation, approved January 10th, A. D. 1866 ; and he shall receive no other compensation for his services.

SEC. 3. This act to take effect and be in force from and after its passage and approval.

APPROVED December 29, 1874.

AN ACT

Concerning Toll Roads, Bridges and Ferries, in Ada County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows :

SECTION 1. The commissioners of Ada county shall have full power to grant licenses to persons or associations to contract and keep toll roads, bridges and ferries in the county, and to establish and change the rates of toll to be collected

thereon, and to fix the amount of license tax to be paid therefor.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

APPROVED January 15, 1875.

AN ACT

Fixing the salaries and fees of certain Officers of Boise County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The sheriff of Boise county shall receive a salary of twelve hundred dollars per annum, to be paid quarterly out of the county treasury, for all services to be by him rendered or performed for said county. He shall also be allowed the sum of one dollar and fifty cents per day for each prisoner confined in the county jail as remuneration for the board, clothing, and medical attendance of such prisoner. He shall also be allowed a jailer, for whose services he shall receive the sum of two dollars and fifty cents per day, payable quarterly out of the county treasury.

SEC. 2. The county auditor shall receive, in addition to the fifty cents allowed him by law, for signing trader's and other licenses, the sum of twelve hundred dollars per annum, payable quarterly out of the county treasury, for all services by him performed to and for said county, whether as auditor, recorder, county clerk, or clerk of the board of county commissioners: *Provided*, That for any services rendered the Territory he may receive the amount paid by the Territory for such services, for his own proper use in full compensation for such services.

SEC. 3. The county treasurer of said county shall receive a salary of eight hundred dollars per annum, payable quarterly out of the county treasury, for all services to be rendered or performed by him for said county: *Provided*, That for any services rendered the Territory he may retain the amount paid by the Territory for such services for his own proper use in full compensation for such services.

SEC. 4. The assessor of Boise county shall receive fifteen per cent. of all poll or per capita taxes collected, and five per

cent. of all other taxes assessed and collected, for his services as assessor and tax collector.

SEC. 5. The county commissioners. Each county commissioner of said county shall receive a salary of one hundred dollars per annum, payable quarterly out of the county treasury. He shall also be allowed the sum of fifty cents per mile for every mile traveled in going to and returning from the regular meetings of the board of county commissioners, to be computed by the most usually traveled road; and they shall receive no other compensation for their services.

SEC. 6. The county superintendent of public schools of said county shall receive a salary of two hundred dollars per annum, to be paid quarterly out of the county treasury, for all services required of him by law.

SEC. 7. All the above amounts shall be payable out of the current expense fund of said county, except the salary of the county school superintendent, which shall be paid out of the school fund.

SEC. 8. The several amounts allowed under the provisions of this act shall be audited and allowed as other claims against the county by the board of county commissioners at their regular meeting.

SEC. 9. An act fixing the salaries and fees of certain officers of Boise county, approved January 10th, A. D. 1873, and all other acts and parts of acts in conflict with the provisions of this act, are hereby repealed.

SEC. 10. This act to take effect and be in force from and after its passage.

APPROVED, December 29th, 1874.

AN ACT

To authorize the County Commissioners of Ada County to build a Bridge in Ada county.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The county commissioners of Ada county are hereby authorized to cause to be built a bridge across the Payette river, at Emmettsville, on said river, at such particular point as shall be made to appear to them most suitable; and for the purpose of ascertaining the facts in relation thereto,

the said board of commissioners, at their session in April, 1875, may appoint three disinterested persons to view the proposed site of said bridge, and report to the said board at its next session after their appointment. And the said board shall have full power to make an order or orders for the purpose of having said bridge built.

SEC. 2. The said board of commissioners are hereby authorized and required, after making an order for the building of said bridge, to advertise and give notice that they will receive sealed proposals for contracts to erect such bridge. Said notice shall be published in a newspaper, published in Ada county, at least once a week, for at least four weeks, and shall state the time that all proposals will be opened. And the said board shall meet at such time at the office of the county recorder, and shall open said proposals, and shall award the contract to the lowest bidder, and shall require such bidder to enter into bonds, with sufficient sureties, to faithfully complete the contract.

SEC. 3. The said board shall cause a diagram, with specifications in detail, to be made of such proposed bridge, which shall be placed on file and kept in the office of the county recorder of Ada county, for the inspection of any person desirous of proposals for the building of the same.

SEC. 4. The said county commissioners are hereby authorized to order payment to be made for the building of said bridge out of the current expense and redemption fund of said county of Ada, in accordance with any contract that they may authorize to be made and entered into with any party or parties for the building of said bridge: *Provided*, They shall not contract to pay to exceed the sum of fifteen hundred dollars.

SEC. 5. This act to take effect and be in force from and after its passage.

APPROVED January 15, 1875.

AN ACT

To amend and extend an act entitled, "An act concerning hogs found running at large in Ada county, in the Territory of Idaho." Approved January 11, 1866.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The provisions of an act entitled, "An act concerning hogs found running at large in Ada county, in the Territory of Idaho," approved January 11th, 1866, are hereby extended and made to include the county of Boise, in said Territory.

SEC. 2. This act to take effect and be in force from and after its passage and approval by the governor.

APPROVED December 28, 1874.

AN ACT

Relating to Common Schools in Shoshone County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the county of Shoshone shall constitute one school district, without regard to the number of children residing therein.

SEC. 2. That no sum exceeding five hundred dollars of the school funds of the county of Shoshone shall be expended in any one year for the support or maintenance of schools in said county.

SEC. 3. That section 2 of an act entitled, "An act to legalize certain proceedings of the board of commissioners of Shoshone county," approved December 27th, A. D. 1866, and all other acts and parts of acts in conflict herewith, are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

APPROVED January 5, 1875.

AN ACT

Providing for the sale of County property in Shoshone, Nez Perce and Idaho counties.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That the boards of county commissioners of Shoshone, Nez Perce and Idaho counties, shall have the right to order sold or sell any county buildings or other county property that may be no longer required for the use of said counties; and the funds derived from such sale shall be applied to the general fund of the county: *Provided*, No such sale shall be made unless first approved by the probate judge of said county.

SEC. 2. This act shall take effect and be in force from and after its passage.

APPROVED January 5, 1875.

AN ACT

To authorize and empower the County Commissioners of Oneida County to construct and repair certain roads in said County.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. The county commissioners of the county of Oneida, in said Territory of Idaho, are hereby authorized and empowered to expend a sum not exceeding seven hundred dollars, to construct and repair a certain road in said county leading from Malad City, the county seat of said county, to the town of Weston, in said county, on such route as they may hereafter designate; and also the road from W. C. Robbins' ranch to Cottonwood creek.

SEC. 2. The construction of said roads shall be on such terms as the said county commissioners, at any regular or called meeting of said county commissioners, shall designate; and if the same shall be let by contract or contracts, shall be let by sealed bids, on at least thirty days' public notice; said notices to be given by order of the county commissioners, by the

county clerk posting or causing to be posted, for each contract, in each precinct in said Oneida county, one notice calling for sealed proposals for the construction or repair of said road or roads, and specifying the time of opening said bids. The contracts shall be let to the lowest responsible bidder, and the county commissioners shall take a good and sufficient bond in such sum as they may deem necessary, from each contractor, with at least two good and sufficient sureties to each bond, conditioned for the full and faithful performance of the conditions of said contract or contracts, within the time specified in said contract. When said roads are completed they shall become public highways.

SEC. 3. The sum necessary for the payment of said contracts shall be paid by order of the board of county commissioners out of the general fund of said Oneida county, and the warrants therefor shall, on said orders, or a certified copy thereof, being presented to the auditor, be drawn by him in accordance with said order, and the treasurer of said county is hereby authorized to pay the same as other county warrants are paid.

SEC. 4. This act to take effect and be in force from and after its approval by the governor.

APPROVED December 28, 1874.

AN ACT

To regulate the catching of fish in the counties of Oneida and Bear Lake, in this Territory.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That it shall be unlawful for any person or persons, for the period of five years from the passage of this act, to take fish from the waters, stream or streams, in the counties of Oneida and Bear Lake, in this Territory, with the seine, spear, traps of any kind, or by the use of nitro glycerine or giant powder, or in any other manner than with hook and line.

SEC. 2. Any person or persons violating the provisions of section one of this act shall be guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction, shall be fined in any sum not less than ten nor more than

one hundred dollars, or be imprisoned in the county jail of the county where such offence was committed, for any term not exceeding six months, or by both such fine and imprisonment; and justices of the peace shall have jurisdiction in any case arising from the violation of the provisions of this act.

SEC. 3. All fines for the violation of the provisions of this act shall be paid one-half to the complaining witness, and the remaining one-half into the county treasury of the county in which the offense was committed for the use of the county school fund.

SEC. 4. This act to take effect and be in force from and after its passage.

APPROVED January 13, 1875.

AN ACT

To amend an act entitled, "An act regulating the Fees and Salaries of certain Officers of Ada County."

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. Section five of an act entitled, "An act regulating the fees and salaries of certain officers of Ada county," approved December 31st, A. D. 1872, is hereby amended to read as follows: Section 5. The assessor shall be ex-officio tax collector of Ada county, and is hereby authorized and empowered to receive and collect all per capita or poll taxes, and all taxes to be collected on real and personal property, as provided by law; and he shall have the same power to enforce the payment of taxes that is provided by law for the collection of taxes by tax collectors of this Territory. And his time for collecting shall be extended until the second Monday in November in each year, at which time the list of delinquents remaining in his hands shall be turned over to the sheriff or other officers as may be authorized by law to receive the same. The assessor shall be allowed, as full compensation for his services as assessor and tax collector, fifteen per centum of all poll taxes collected, and five per centum of all other taxes by him collected. And the time for commencing the assessment of said county shall be upon the first Monday of April of each year.

SEC. 2. Constables may lawfully charge, demand and receive the same fees allowed sheriffs for the same services.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED January 14, 1875.

AN ACT

Authorizing the Board of County Commissioners of Idaho County to grant aid in the construction of a Wagon Road in said County.

Be it enacted by the Legislative Assembly of the Territory Idaho, as follows:

SECTION 1. That the board of county commissioners of Idaho county may, at their regular session in July, 1875, appoint three viewers to locate a county road from White Bird Hill, along Salmon river, on the most practicable route, to Slate Creek and John Day's Creek, in said county.

SEC. 2. The viewers so appointed shall, at a time fixed by an order issued by the clerk of the board of county commissioners, meet at Slate Creek and proceed to view and mark said line of road and cause a report to be made out directed to the clerk of the board of county commissioners; and when said report shall be approved by the commissioners, and ordered opened by them, they may have power to levy one day's labor, to be performed on said road, by all male persons in said county subject to road duty: *Provided*, That any person may pay the sum of two dollars in lieu of said day's work.

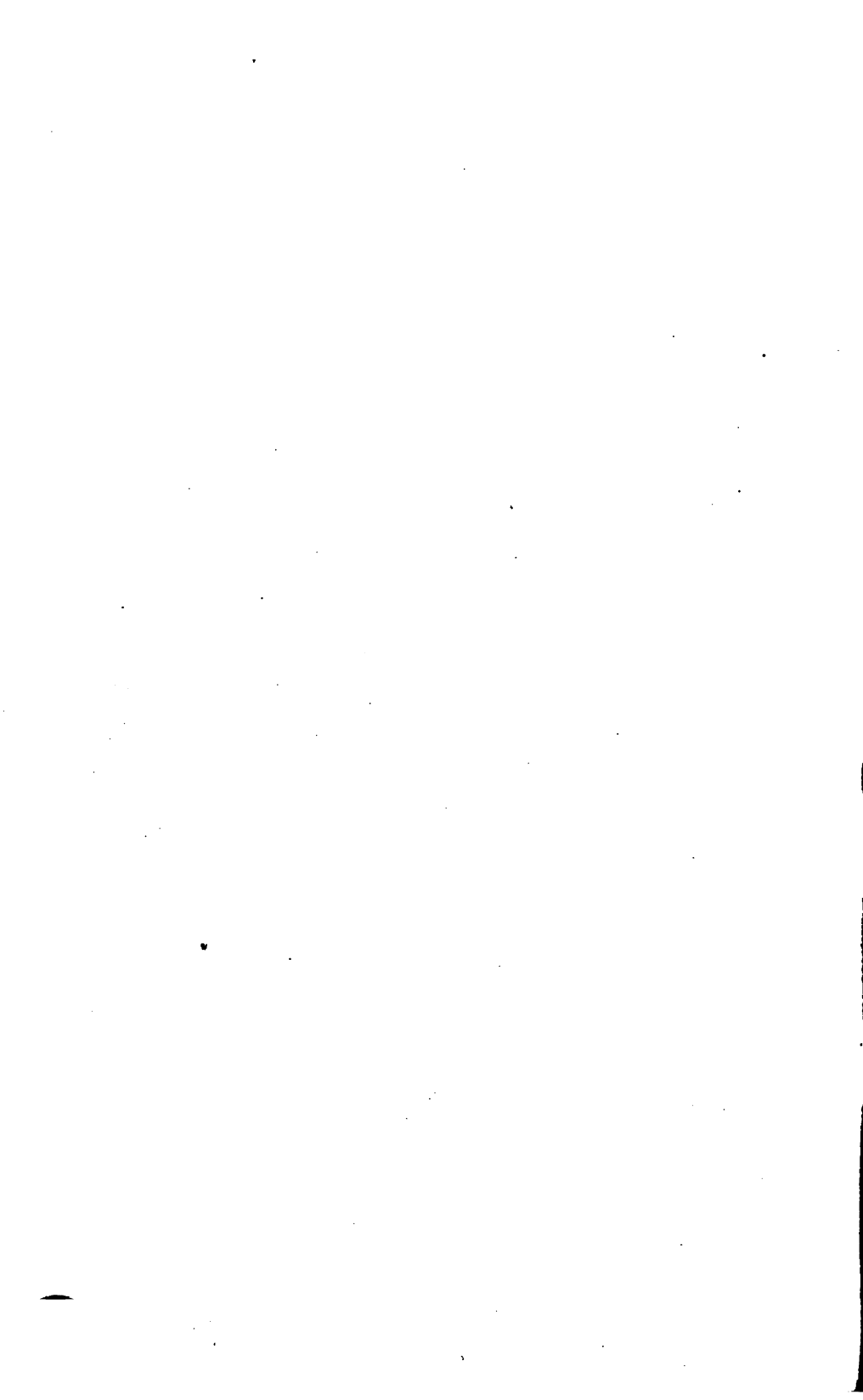
SEC. 3. The supervisors of said road district or districts shall have power to cause the work to be performed on said county road, and collect the taxes as provided by this act.

SEC. 4. The viewers shall be allowed the sum of five dollars per day for their services, to be paid out of the county treasury.

SEC. 5. This act to take effect and be in force from and after its passage and approval by the governor.

APPROVED December 31, 1874.

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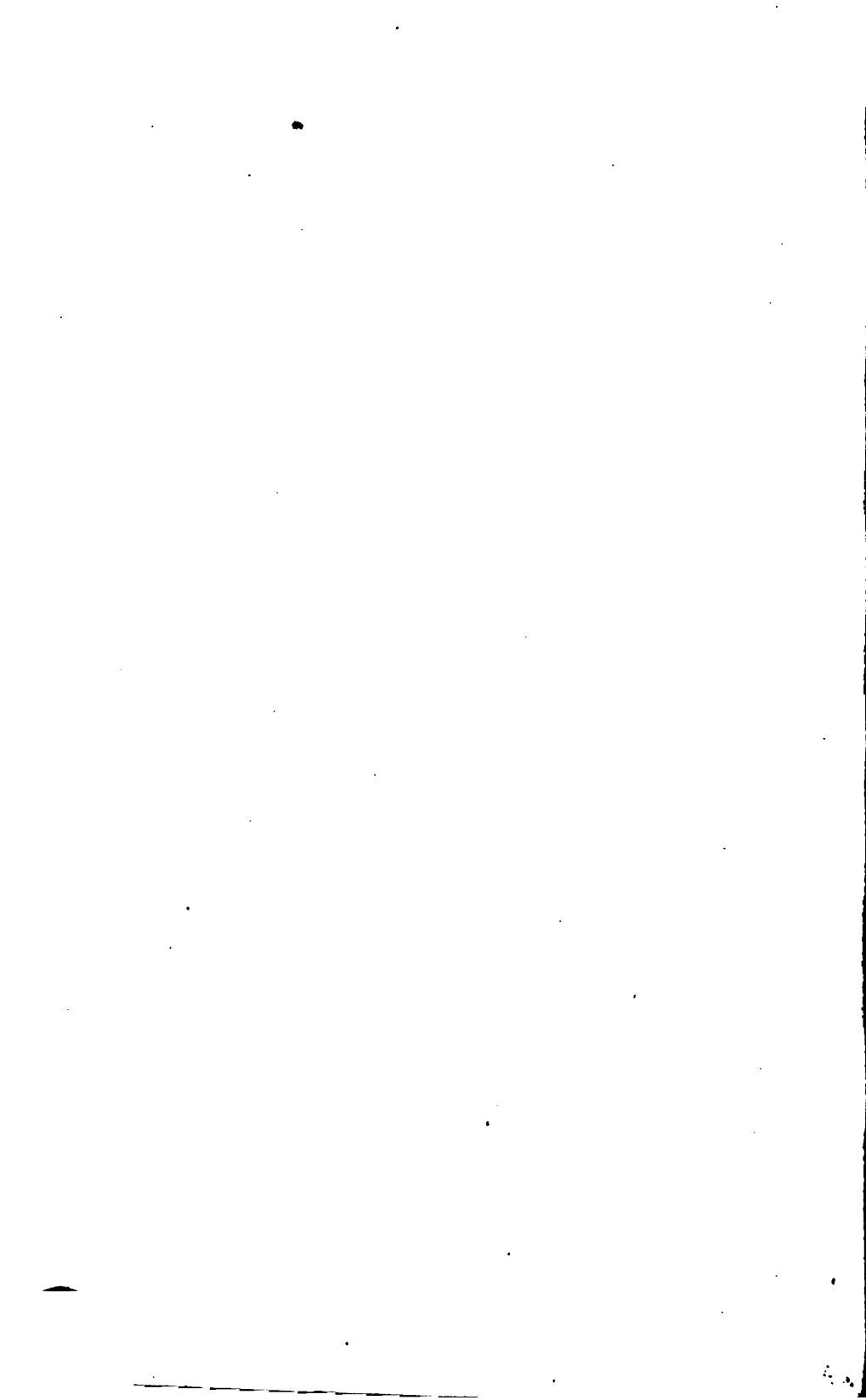
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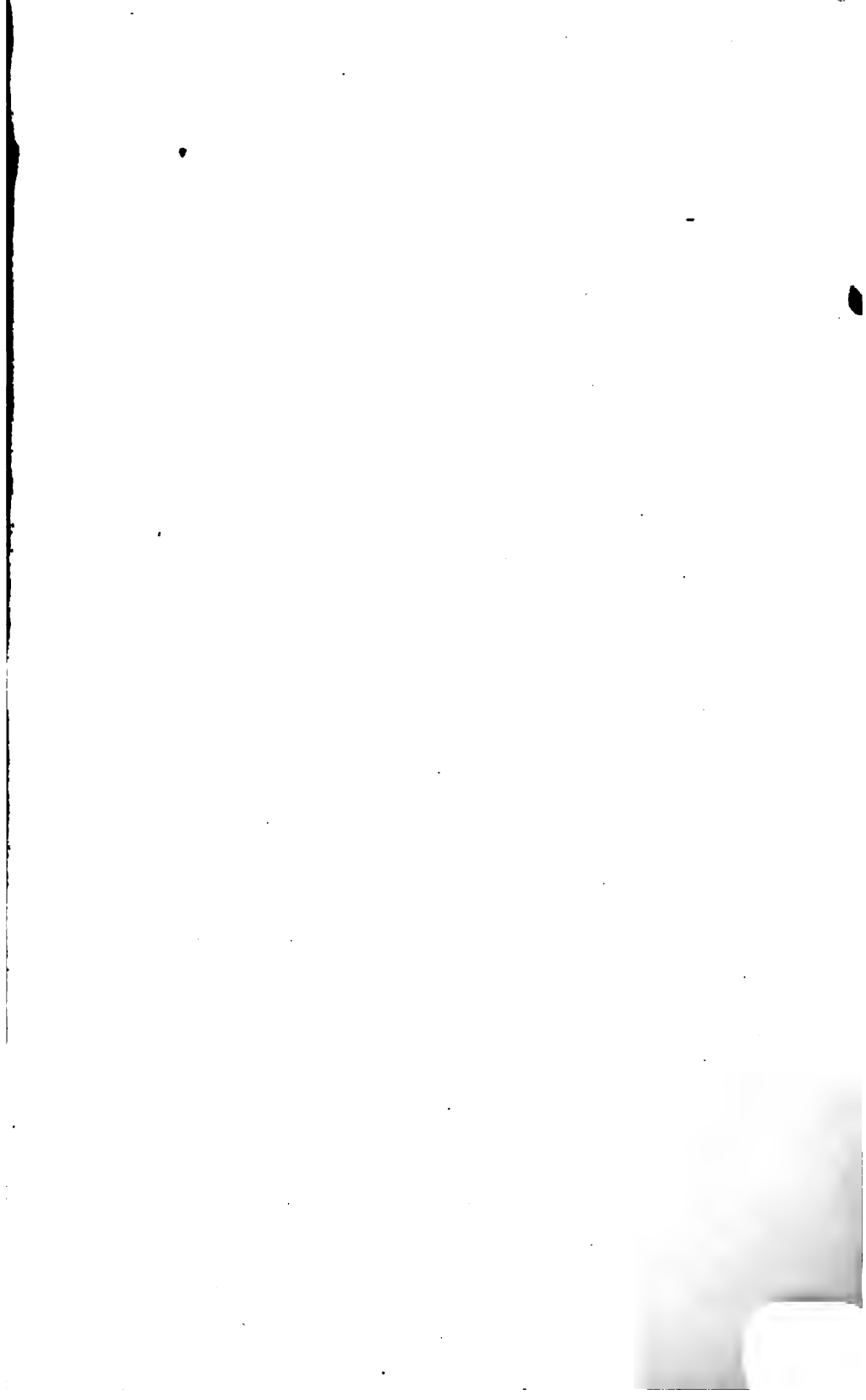
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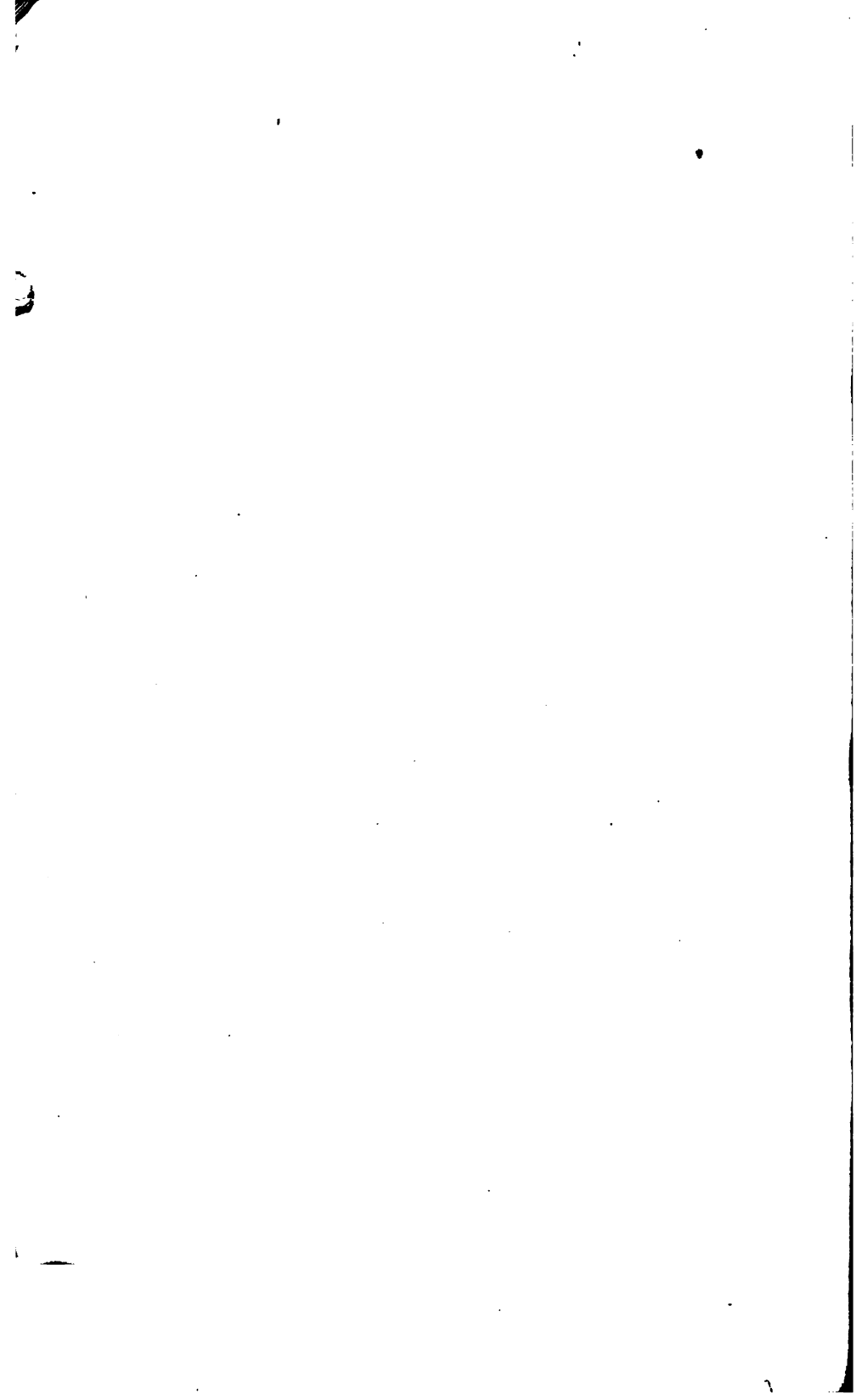
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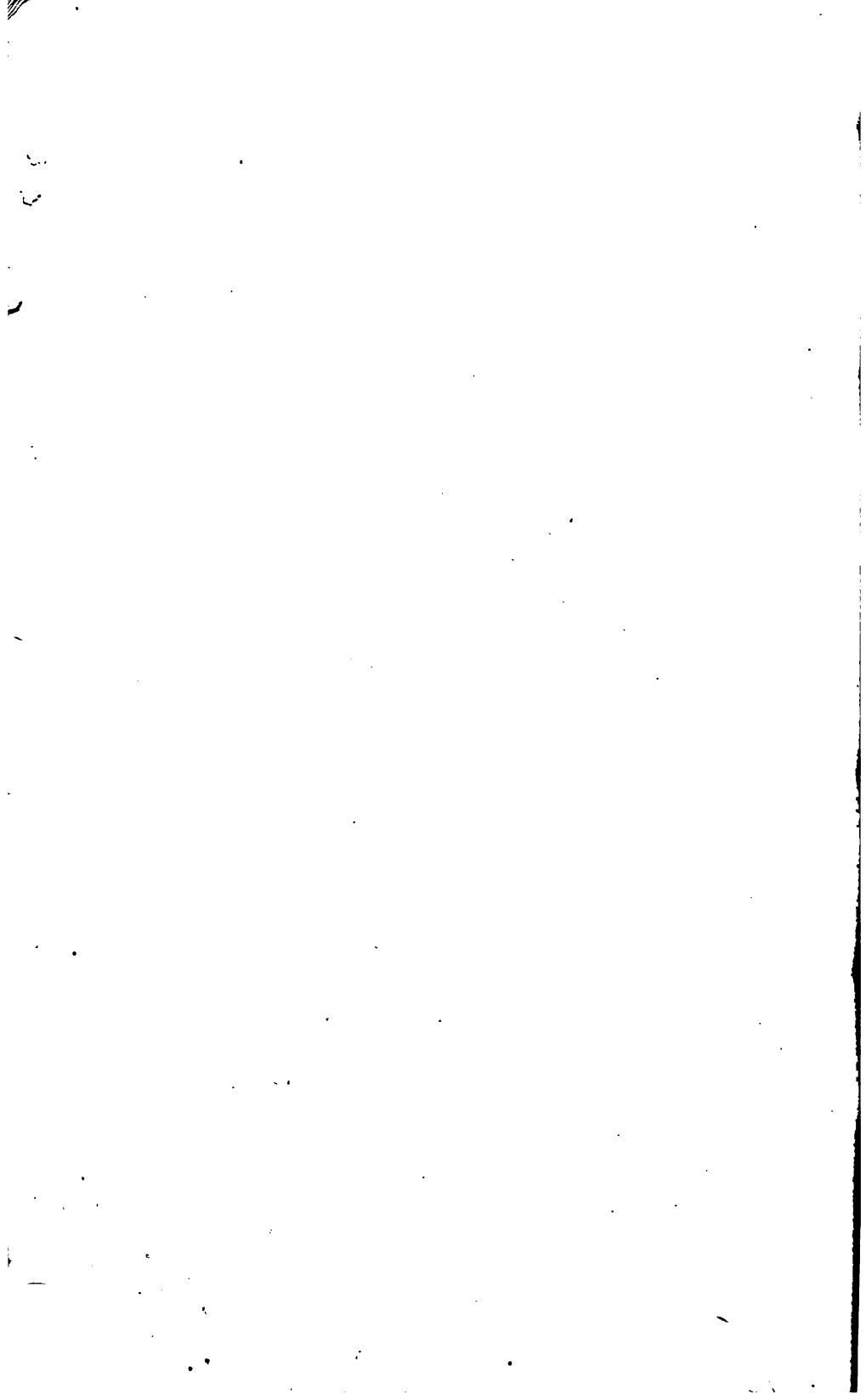
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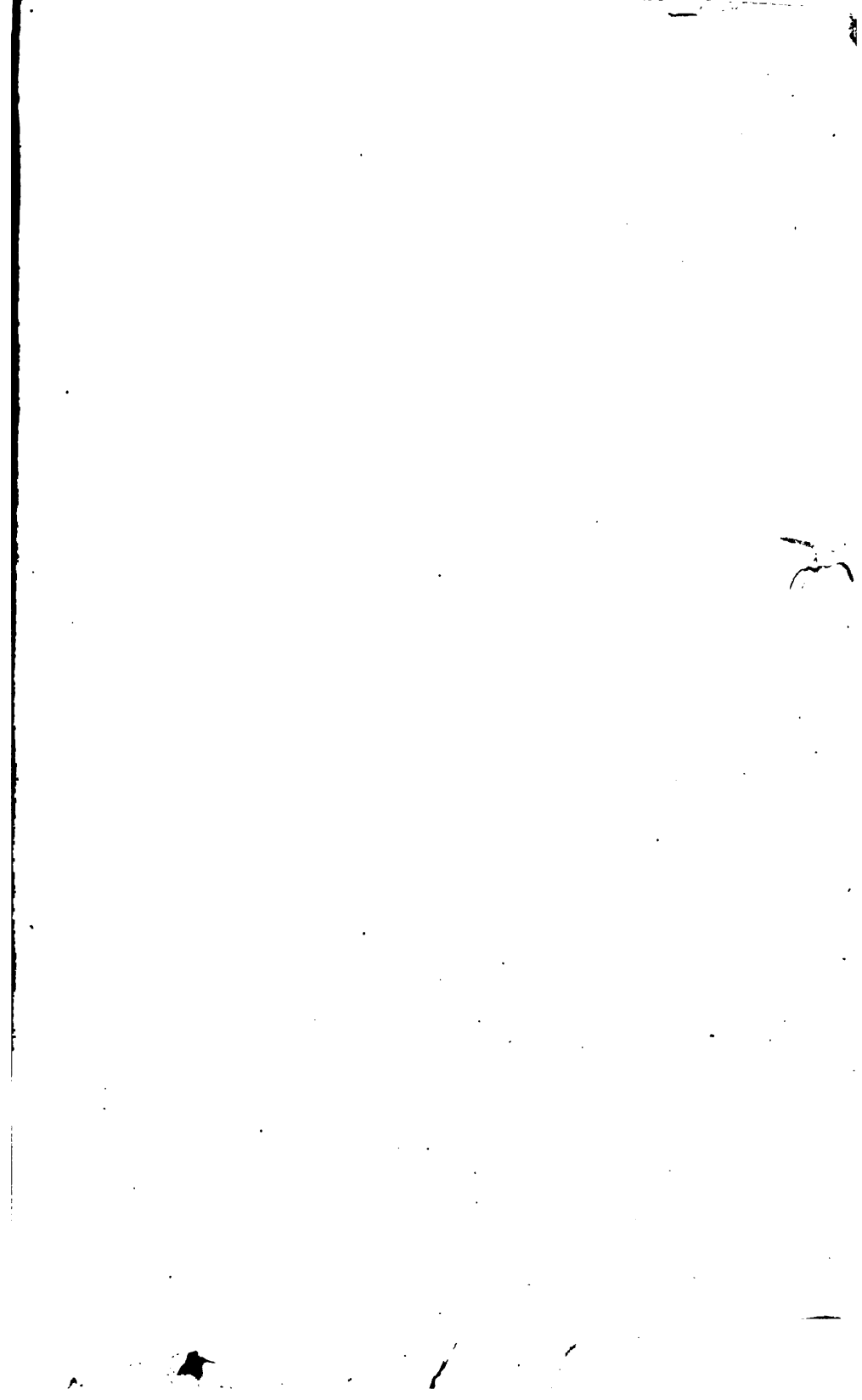
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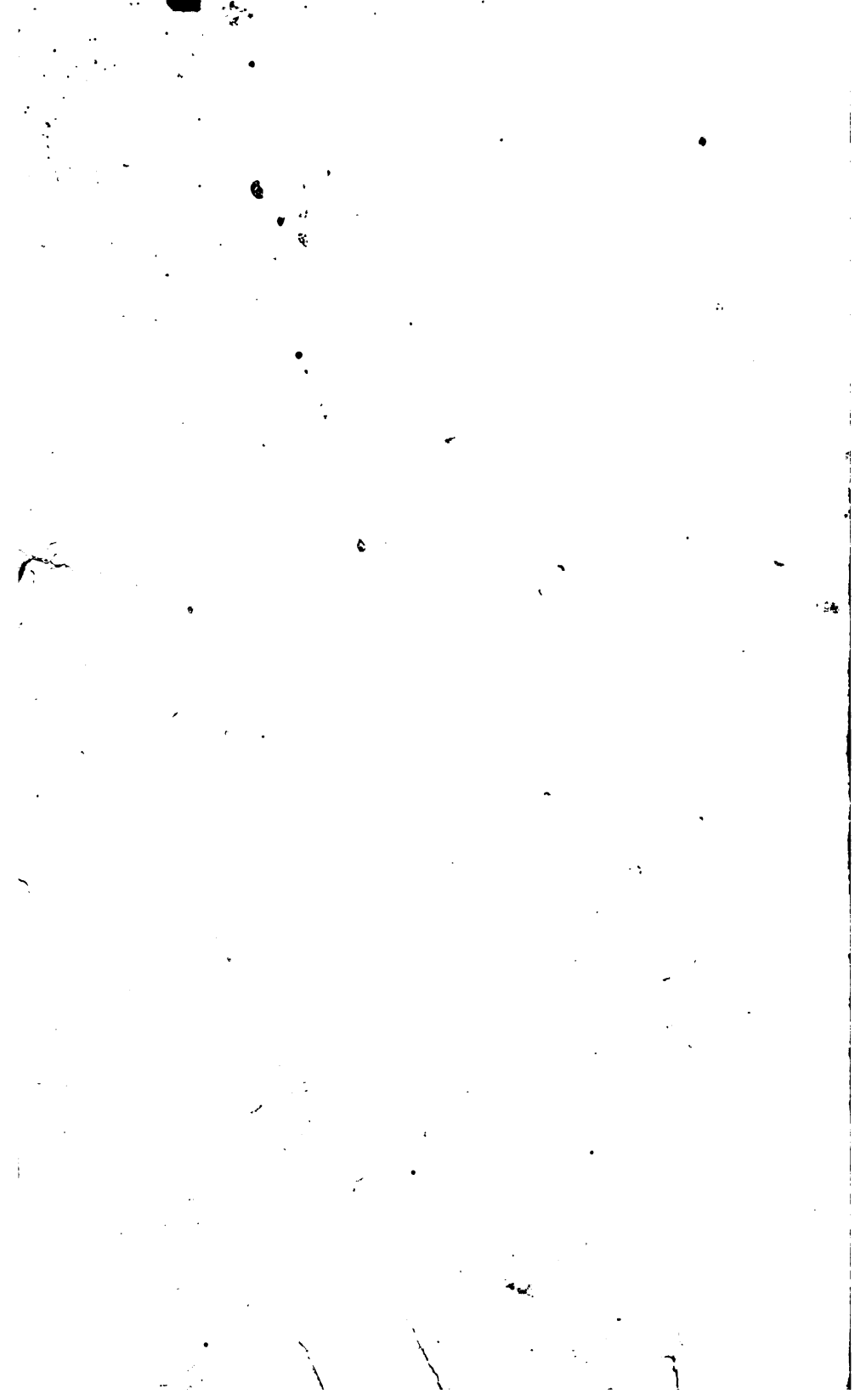
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